

2015 HOUSE ENERGY AND NATURAL RESOURCES

HB 1415

2015 HOUSE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee

Pioneer Room, State Capitol

HB1415

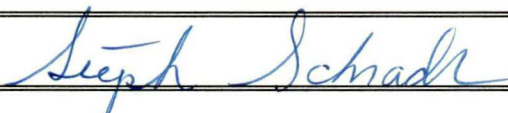
1/30/2015

Job # 22911

☐ Subcommittee

☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A BILL for an Act to provide an appropriation to the state water commission; to provide legislative intent; to provide an exemption; and to declare an emergency.

Minutes:

Attachments

Chairman Porter opens hearing

Representative Al Carlson, District 41

This bill as introduced has nothing to do with the Fargo Diversion Project. It has everything to do with interior flood protection in the city of Fargo. I've identified a funding source for it. In the city of Fargo we are adding 10 new people to our population a day. That's 3600 people every year that move into the city of Fargo every year that need a place to live that is safe from flooding. This money will be used for interior flood protection; it allows the city to protect the areas that are feasible. It will not take every area out, but because of the new flood maps that will come out. There will be, exceeding, 2300 families that will require flood insurance that weren't required before. Very expensive flood insurance, this will help prevent a lot of this. This 60 million dollars will be identified, in the projects they show you today, to speed up the process. We have used federal, state, sales tax, and special assessments to protect our city. The problem is it doesn't come fast enough for us to be able to protect properly. We are asking for help in two parts; 60 million dollars this biennium, 60 million dollars next biennium to help defend our city. Fargo is the biggest city in the state in the fastest growing county in the state. We believe that this is money well spent to protect the economic engine that's vital to the state of North Dakota.

Rep. Roger Brabandt: What is the population of Fargo and the metro area?

Representative Carlson: Fargo itself is close to 115,000; West Fargo is 30,000-35,000, The metropolitan area is about 250,000 people.

Chairman Porter: Cover the one component that we are getting in front of the federal government. That we don't feel that we can wait for them for the main flood protection of Fargo. This is a 100% state project that's going into the interior corridor of Fargo.

Representative Carlson: Yes, and I would maintain that this is as important to Fargo whether we have the diversion or not, because there is still going to be a massive amount of water flowing through town and this could be a long term venture to get that other build. This is required; we have partnered and gotten money from other places. We have done a great deal of it on the backs of our citizens with sales tax and special assessments as well.

Chairman Porter: The money over on this side, the plan and the engineering is that still coming in coordination with FEMA or has Fargo been doing their own planning for the main flood protection?

Representative Carson: I'm going to let the engineers answer that, I'm not sure what the partnership is.

Pat Zavoral, City Administrator- City of Fargo

Handed out Written testimony #1 from Timothy Mahoney, Fargo Mayor

This morning we would like to have April Walker our City Engineer give you a detail of what we are doing. Please keep in mind this is very complex in terms of how we have to deal with the federal government and FEMA. The issues of timing are many fold, we've got FEMA that just passed some new flood plain management regulations that raise the elevation of our flood plain from 38.5 feet to 39 feet. They are already looking at the information we develop during the diversion work to suggest that our flood plain at a hundred year is not 39.5 feet which they just passed, but that it's 41 feet. Somehow we have to move our selves ahead so we can get real protection, as well as certifiable protection. The flood insurance rate industry is moving away from a subsidized rate to an insurance based rate. That's a timing issue because the diversion will some take time.

Chairman Porter: Tell handed out the exemption language out of century code so you understand what that exemption language does.

Written testimony #9

April Walker, Fargo City Engineer

Written testimony # 2A written, 2B power point

Chairman Porter: On the cost estimate of 240 million dollars and an additional 121 homes left to be acquired, is that acquisition of those 121 homes in the number?

Walker: No, it's a construction cost. We think there's about 36 million associated with the acquisition.

Walker: In your package there is a picture of meadow creek, the first is the completed earth work. The next page shows you what it looked like in 2009.

Chairman Porter: Inside of the funding mechanism of what you're estimating the total cost of the project to be at about 276 million dollars left, you're asking the state for a 120 million dollars.

Walker: Correct.

Chairman Porter: And the rest of the funding will be from what sources?

Walker: We have our infrastructure sales tax in place that we've been using to fund non-diversion flood control projects.

Chairman Porter: How much does that generate for you?

Walker: It's a half cent, which is about 13 million a year.

Chairman Porter: As we're taking this project, and with this bill we're making this a state works, a state project, so there are zero federal funds that will be a component of this? What happens if federal funds become available?

Walker: We really haven't been able to use federal funds for much of the comp plan that's been done to date. There have been federal funds going towards the design and development of the diversion project. In terms of the levy building and construction that's going on FEMA has moved away from the construction of levies that they deem to be large projects. That definition of large projects that's amorphous, we have not been able to secure grant funding. The work done today, the 16 miles has been sales tax funded and locally funded. In terms of moving forward we look for grant opportunities, we deploy them whenever we can. Opportunities have been mostly limited to lift station work.

Chairman Porter: With 41 feet being used for flood insurance, wouldn't it be better to shoot for 41ft in those areas that you can and move away from that 39.5 feet?

Walker: When we built for the 39.5 that means the project has a minimum of 3 feet of freeboard built into it. The top of the levies are usually about 42.5 to 43 feet. In addition to that, we add on one foot that accounts for any potential settlement that occurs in the levy long term, and the top soil, you don't count the top soil in the protection level. We are building to an elevation of about 44 feet, but to be accredited and provide for the flood insurance reductions you have to have additional on top of that. Are we providing real protection with this plan to a flood event of 41 feet yes, because we're building to 44 feet. But, we don't have the necessary freeboard to keep people out of the flood plain for reduced insurance premiums.

Chairman Porter: The flood protection will be there, but without the diversion, the flood insurance will still be an expense to having a home in those areas?

Walker: Right. In addition to that, our ability to fight floods that are greater than a hundred year, we cannot go much higher than the 44 feet that we are building. If we were to get an event similar to Minot, we'd be in the same risk category; water could overtop our levies and do extensive damage inside the city. That's why, for that major population center, we need to strive for more than the 100 year level protection.

Chairman Porter: Inside of this project, where ever you can ,you are going as high as you can?

Walker: We are building to a minimum of 44 feet when we build a project.

Chairman Porter: But, you are building higher in some areas, when you can?

Walker: Any time we build a flood wall the walls are at 45 feet. Because you can sand bag and emergency flood fight on top of the levy, but you can't do so on a wall. We are limited in how high we can go by geotechnical or by property constraints, it might take million and millions more dollars to add height because your foot print gets bigger and you have to buy out more homes to do that.

Rep. Corey Mock: Is there any additional dollars in that's in a different budget that's being heard by appropriations, is this in addition to that, Is this the appropriation that we would be looking at in the next biennium?

Chairman Porter: We can get that information from the Water Commission.

Rep. Corey Mock: What is the relationship with this project, going forward between state, the State Water Commission, and the Army Corp of Engineers? Is this still deemed an Army project, or is this now a state project?

Walker: This project has never been an Army project. It has been a city lead effort. They are engaged in the diversion portion. Nothing that we would be building with the funding would be considered eligible under the diversion. There portions of levy are eligible under division, they are not a part of the comp plan they are a part of the diversion plan. When we design and build we build to the Corp standards.

Mark Nisbet, Xcel Energy, Principal Manager
Written testimony # 3A. B

Bernie Dardis, CEO Indigo Signworks, past Chair of the Fargo Moorhead West Fargo Chamber Board of Directors
Written testimony # 4

Doug Restemayer, D-S Beverages, Chair of the Fargo Moorhead West Fargo Chamber Board of Directors
Written testimony #5

Rep. Roger Brabandt: You mentioned the possibility of 6,000 a year of flood insurance, is that real?

Restemayer: I'm not an expert, but the escalation begins shortly, we have a couple year hiatus on it. At 18% a year they could to 6,000-8,000 dollars a year, on a 250,000 dollar home.

Rep. George Keiser: The bill passed by the US Congress, once they recognized that the actuarial underwriting that would have followed it, Congress temporarily delayed the implementation. It does not relieve the fact that the federal flood insurance program is over six billion dollars debt, currently.

Dave Anderson, Director of Public Affairs for Sanford Health Fargo.

Written testimony #6

Nancy Willis, Government Affairs Director for the ND Association of REALTORS

\$460-\$2200 for flood insurance

Written test 7

Opposition:

Neutral:

Bruce Engelhardt, Director Water Development North Dakota State Water Commission

Written testimony #8

Rep. Mike Nathe: Clarify, the 69 million in executive budget, will the cities be able to use that for dikes and levees?

Engelhardt: Yes, some of that funding has been used to date for acquisition for some of the properties and for the dikes and levees.

Rep. Mike Nathe: This would be on top of the 120 that can also be used for dikes and levees?

Engelhardt: Correct.

Chairman Porter: What percentage of that 69 million is for interior Fargo flood control for permanent flood protection and what other components does that money go towards?

Engelhardt: That's not specifically laid out, to allow flexibility. If there are dikes in the interior of town that are ready to be built and that is the local sponsors wishes, it can be programed towards that. IF the federal project moves forward and they need funding for that, they can use the funds for that purpose also.

Chairman Porter: Of the money that's been allocated between the 11-13 and 13-15 bienniums, 175 million was specially appropriated for Fargo's flood control, of that 175, what has been spent and what has it been spent on.

Engelhart: I would need to get you those numbers. Dave Laschkewitsch has some of those numbers.

Dave Laschkewitsch: Director of Administrative Services at the Water Commission.

Through December, the most current report that I have, we have 123.4 million dollars remaining of the 175, so we've spent about 50 million.

Chairman Porter: What did you spend that on?

Engelhart speaks up: The majority of that would have been spent on property acquisitions and some on engineering and construction.

Chairman Porter: For the city of Fargo to come to the Water Commission currently, without HB1415 there's a 123.4 million dollars there for them to come in and say we need 60 million dollars to do these projects, they're dirt ready. Then the Water Commission is going to say here's your check?

Engelhart: All of our cost share is done on a reimbursement basis.

Rep. Mike Nathe: That 69 million in the executive budget is subject to all the requirements you have just been talking about?

Engelhart: Yes.

Chairman Porter: This money would not?

Engelhart: This money still would be subject to that process. The bill does say that the commission does have to approve the request from Fargo. If Fargo would ask for a cost share of 100% on a project, with this legislative language, the Commission would have to approve that.

Rep. George Keiser: The secondary issue here is the flood insurance required flood act to go to sound actuarial rates. If we don't address Fargo very quickly, we're going to have a community that can no longer support living there. Does the Water Commission think about those implications to this project and other flood projects?

Engelhart: Yes. We work every day with FEMA on the flood plain management, we have staff that are dedicated to this.

Chairman Porter: With the 60 million dollars, over two biennium and without the cost share components, what does that do to the project cost share ratios? If you guys could work through those numbers and get back to us, so that we can see what is sitting in this bucket. We would like to know what is dedicated that flows through the Water Commission's cost share formula out of that 275 million dollars over the next four biennium. What happens with the 123 million sitting there and then this 120 million dollars and how that plugs in.

Rep. Roger Brabandt: Has the engineering been done on these projects?

Engelhart: That may be a better to question for the City of Fargo.

Walker: As you can imagine, with 243 million out there left to do, they are in various stages. They are broken into project reaches. Some are in progress, some prepping for bid packaging this year, some in concept.

Chairman Porter closes hearing.

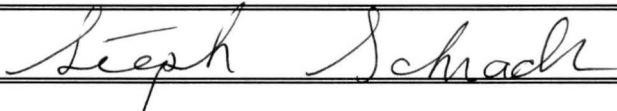
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2/5/2015
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Minutes:

Attachments #1

Chairman Porter opens hearing.

Chairman Porter distributes written testimony #1 from Pat Zavoral, Fargo City Administrator.

Chairman Porter: The total cost when presented a couple of sessions ago was 1.8 billion dollars. We chose our percentage of participation at 450 million dollars. The other 450 million is the local share; the feds were picking up half and the state and local were picking up 25 % each. Inside what has been currently allocated to the project, of the 450 million dollar share, there is 125 million that is sitting there for the project. The bill proposal is to separate out from the total diversion project of 450 million dollars to take the Fargo Interior Flood Project component and pull it out. The 60 million, over two biennium is in addition to the current obligation that we have of 450 million. We are changing our total obligation to the project from 450 million to 570 million dollars. The 450 will be there if the diversion doesn't happen it can be taken back. Fargo's argument is that they do not want to continue to tie their obligation for their interior flood protection to the diversion because of the controversy of the diversion, and relying on federal funds to get that done.

Rep. Roger Brabandt: The original total package was 1.8 billion? Of that amount the feds were going to throw in 50%, the state 25%, and the local 25%?

Chairman Porter: That is correct. That was the total project, it includes the diversion and the interior.

Rep. Roger Brabandt: Do they already have 450 million dollars?

Chairman Porter: No, we put money into that on an annual basis. Of the total allocation of the 450, so far there has been 175 million appropriated to the diversion project. Of the 175

million that been appropriated 50 million has been spent. There is still 125 million inside of the Water Resources Trust fund that is allocated for this project that is sitting there. Our current obligation into that fund, is 69 million this coming biennium, into the diversion fund.

Rep. Roger Brabandt: The 450 million dollars is obligated.

Chairman Porter: Correct. It is funded over a number of bienniums.

Rep. Curt Hofstad: Understand that the 450 million dollars is an earmark, we put that into HB 2233. The issue is the city of Fargo not being able to move that money from a larger project into a smaller one. Wouldn't be a better solution if we remove the restrictions on that earmark and allow the State Water Commission to use the funds that are available, rather than appropriate an additional 60 or 120 million dollars, to take off the earmark from the 450 million dollars.

Chairman Porter: The political atmosphere inside of the diversion and the controversies inside of the total package of the diversion are huge. There is Minnesota, Wahpeton - Fargo, Canada, and the feds having half of the cost of the project. The City of Fargo felt that the commitment to the project is important to show the commitment they have to the diversion. They don't want to drag the politics of the diversion into the interior design fixes.

Rep. Glen Froseth: How is the city of Fargo raising their 25% of the money?

Chairman Porter: They have two methods: special assessment districts, and sales tax.

Rep. Glen Froseth: Why couldn't they divert money from their share to their flood wall project if the diversion ever becomes reality they could replenish the money.

Chairman Porter: The 60 million for the interior flood protection is not 100%, there is a local cost share going along with that.

Rep. George Keiser: If the federal government bill goes through, flood insurance will be astronomical. In addition, I don't see a lot of money coming from the feds for this project. You may be looking at paying for the entire 1.8 billion. The locals are charging special assessments and sales tax, they have built their share of the barriers, they don't have the dollars now, it projected like a revenue stream. They want this money so they can do their shovel ready projects so you get the people out of the 100 year flood plain, that's the key on the insurance side.

Rep. Curt Hofstad: Laying aside the insurance issue, going back to the Cities argument to keep the earmark intact to give the perception of being ready to partner with the federal government is still on the table. The problems with that is that you can't build a project in conjunction with the federal government do you share then ask the federal government for money. It doesn't work that way. It's seems like the solution is to remove the earmark, allow the State Water Commission to move the money over and start the interior project.

Rep. Bob Hunsakor: Do you think that, if the federal money was assured or in not assured, as it is now, would the 60 million dollars be there either way? Or is the 60 million there because the federal money may not show up?

Chairman Porter: Yes it would be there either way. At this point we have only allocated 25% of the cost to the cities and the affected area.

Rep. Roger Brabandt: Is the money coming from the federal government? We have some serious considerations in this state, but in most cases it's not life or death. But to a lot of people in the state, Devils Lake, Bismarck, Minot, Fargo, of North Dakota this flood situation is a matter of life and death. I think we need to take care of the water situation.

Rep. George Keiser: The dilemma is if we spend this money and it comes out of the 1.8 and the feds are still players the money we spent on the project gets taken out of what the feds' cost share is.

Chairman Porter: Tomorrow I have set aside to get appropriation work finished. We are going to invite the water commission and Representative Carlson, down here at 9 am to continue the discussion. We will sit here tomorrow until the bill is done.

Chairman Porter closes hearing.

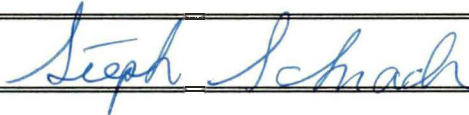
2015 HOUSE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee Pioneer Room, State Capitol

HB1415
2/6/2015
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☐ Subcommittee
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To provide an appropriation to the state water commission; to provide legislative intent; to provide an exemption; and to declare an emergency.

Minutes:

Attachments #1

Chairman Porter re-opens discussion. I asked the sponsor of the bill and the State Engineer to come down to explain the mechanisms of how this will work.

Representative Al Carlson, District 41

I put an amendment together, that I have handed out. Written testimony #1

Todd Sando, State Engineer

I'm here to answer questions.

Rep. Curt Hofstad: You have quite a bit of latitude as to how you obligate your budget funds? As those projects and budgets have developed over years, I'm assuming that there are unobligated funds or funds that have not been spent?

Sando: We are sitting really good for funds right now. When the legislature appropriates the money the water commission allocates it to projects based on if they're shovel ready.

Rep. Curt Hofstad: If we were to authorize the state water commission to reallocate those unobligated funds, would that be something that would give you the authority and allow you to spend this 60 million dollars?

Sando: We have a lot of money that has not been allocated, yet. Much of the money we have set aside is for projects that have been approved but are not ready to begin.

Rep. George Keiser: I need to get from you, our professional in the field, if we were to approve this, what's the impact everywhere else?

Sando: Currently, there is a 175 million set aside, so far they'll only spend a little over 50 million of that. They have plenty of money to build projects, if it's the diversion or building levees. They may be worried if there's enough to build all their interior dikes and the diversion. The costs have gone up and it's taking a long time to build. Fargo has their money, they have the 50% cost share.

Rep. George Keiser: This intent language would have an impact on future years, but currently they could do everything they need to do and you would be able to support an escalated construction season this summer?

Sando: That's correct.

Rep. Mike Nathe: We have the money on top of the state share, it's going to be used for interior flood protection. If the diversion never gets built, would the interior flood protection measures being taken protect the city?

Sando: Just building interior levees does not remove these homes from the flood plain? They really need to divert a big part of this flow around the city.

Rep. Mike Nathe: If the federal government and the Corp have no money now or in the future, it's your opinion that we may be looking at funding the whole thing?

Sando: That's a potential.

Rep. Glen Froseth: Building the flood walls would not take that area out of the flood

plain; therefore, they still wouldn't get relief from the high flood insurance rates?

Sando: With the hydrology and the flow rate, they have to divert some of that water around, levees can't be built high enough to get them out of the flood plain.

Rep. Glen Froseth: As long as they are considered in the flood plain, their insurance rates will still be high?

Sando: That's correct.

Rep. Roger Brabandt: At what level is the commitment from the federal government to provide that 900,000 million dollars?

Sando: Right now there is no appropriation from the federal government. It's just an authorized project right now.

Rep. Bill Devlin: Is the 69 million that's already in your budget, and the 60 million we're talking about for this 2015-17 biennium, is that duplicative funds?

Sando: We are funding interior dikes right now. We are not putting money to the diversion because there is no federal funds. The only thing we are putting funds towards acquisitions to get people out of the way. I think the 69 and 60 are just additive on top of what's there.

Chairman Porter: Really, inside of the bill and the language of the ability of using unobligated funds, we could do the same thing by just raising the cap to 570 million dollars and use the same money stream that's there?

Sandoe: Yes.

Rep. Roger Brabandt: The 50 million has been spent already, that's basically engineering services, or has there been some construction?

Sandoe: We have been putting payments on dikes through town and a lot has been used to buy homes.

Rep. Curt Hofstad offers amendment,

Rep. Mike Lefor: Second

Chairman Porter: The option gives them the ability to negotiate with the feds

Rep. George Keiser: How much that's obligated has been allocated?

Dave Laschkewitsch, Water Commission Administrative Services

There is in our current budget about 78 million dollars that we have not obligated to projects. Meaning that we have plans to use them, but they have not been needed for the project work at this point. The amount of revenue in the Resources Trust Fund that is exceeding the projections is about 160 million ahead right now. We could actually collect less than we projected. We may have only 150 million by the end of the biennium, of additional funding. We are tentatively, in conversations with the senate, anticipating that we will use that 150 million plus your revised revenue forecast of 350 combined for 500 million for next biennium's projects. That is a serious cut from the 930 million. I don't think there's any extra money.

Rep. George Keiser: That was my concern, the money there that would qualify under our proposed amendment, that would then knock those projects out.

Laschkewitsch: I believe under your proposed amendment we would have to take that from someone else. There is 123.3 million dollars not only allocated, but obligated to Fargo that is unspent right now. We plan in the next biennium to add another 69 million to that number. Because the project is not moving as fast as everyone would like, and the diversion is not going to need all of that money, We believe there is probably, adequate funding in that amount to take care of these interior projects right now. What I

understood Representative Carlson to be looking for is, he knows that if we use 450 million dollars, which is the overall cap for the project, if we start to use that on the interior there will not enough for the diversion part of the project. I think what he's looking for is to raise that cap. Do we need it next biennium? Probably not, City of Fargo can probably tell me I'm wrong, but I don't think they need it next biennium.

Rep. Glen Froseth: This chart was handed out earlier, shows their development priorities table, chances are slim to none that all of these projects would be approved in the next biennium, but what if they were approved, what will you do?

Laschkewitsch: I believe you have a water coalition plan in front of you. Right now we are in discussion with the Senators as to what are we going to do when we don't have the money to fund that plan. We developed a priorities process, at the legislatures request, with the water topic overview last interim. We would have to implement that priorities process and start to fund those projects that were in the high priority area. Consequently, some of the projects lower on the list will not be funded. It is not our intent that we would simply use the dollar figures that everybody thought that they would get and simply draw a line and say below this line you don't get your funding. I think we will revisit all of the project sponsors to ask if they really need that much money. I anticipate there will be reductions even in our high priority projects, so that we can get further down that list.

Rep. Dick Anderson: Is there any way to estimate the time frame for the diversion?

Laschkewitsch: I anticipate that this diversion project will take a substantial amount of time.

Vice Chairman Damschen: If we raise the cap, we would still, in the future, be able to come up with the 450 million?

Laschkewitsch: Yes, I anticipate that. Futures are hard to predict with oil as you know, but I think there is a long term revenue stream for the Water Commission.

Rep. George Keiser: Is it correct that if we adopt the amendment that would have a direct impact on some programs. If we had language that said the intent is for them to use the money now, then the legislature puts a priority on additional funds for the diversion. Is that a way out of this thing?

Laschkewitsch; I believe that legislative intent would not obligate us to take money from anyone else. I think would still allow the project to proceed as rapidly as it can.

Chairman Porter: Explain the mechanism of receiving funds? We can raise the cap, but Fargo can't just come and get the money because they have to go through a whole set of hoops within the diversion project to have access to the money. That they don't necessarily have the votes to get the money for the projects.

Laschkewitsch: We currently operate on a reimbursement return. After the city spends the money, they submit the bills to us and we will give them 50% cost share of what they are asking. You are correct in that they have to run those bills through the diversion authority.

Chairman Porter: They not only have to run them through the authority, they have to have the authorization from the authority before they start the project.

Laschkewitsch: In our world, we have authorized the 175 million for their flood control project without restricting it to diversion verses internal.

Chairman Porter: I understand that the bill comes to you, but there's a whole other set of hoops that they have to go through to get the money.

Laschkewitsch: At this time they have submitted some claim for internal flood control.

Rep. Mike Lefor: Of all the budgeting of the 932 million, Fargo would get 69 million this biennium, did I understand you to say that they wouldn't spend that in diversion funds this biennium.

Laschkewitsch: It was my understanding that they were submitting all of their costs as they were incurring them currently. After hearing some of the testimony, I see they have been footing some of the bills to protect some of the 450 million dollars for the future. That is not necessary, if you as a body choose to raise that limit, they would no longer need to protect those funds for the diversion. I suspect they may go back and submit some more cost to us to use up some of the money we have allocated. In visiting with the city prior to this, we included all of the money they thought they would need for construction in the next biennium. I believe they have adequate money for the current biennium and the next one in the budget to do all of the things they can build. I would like to have a representative from Fargo confirm that.

Chairman Porter: We have an amendment before us.

Rep. Bill Devlin: I do not understand line 6 of the amendment, "not otherwise appropriated."

Chairman Porter: My understanding of that, would take the concern that the committee has, out that it would be bumping other projects and taking money from other projects. If it is appropriated then that is in the plan and inside of the budget and inside of the projects that that money would be inside of the difference between what their fund has in it and what's been appropriated. That projection, because we're ahead of the spending obligation this biennium, that's the other line of funds. The explanation from the State Engineers Office is that by tapping into that money, then you're affecting projects for next biennium that have not been identified yet. That's why I have a certain level of comfort with that language because it's not affecting any existing projects and their allocation, by not having the words, "not otherwise appropriated".

Rep. George Keiser: I'm not sure that's right, but I would like them to say yes or no, if that is correct? If it's this biennium?

Laschkewitsch: The bill has an emergency clause on it, so my read is there is appropriated out of any unobligated moneys in the Resources Trust Fund, and there is approximately 150 million dollars that's unobligated, You would be committing 60 million dollars to Fargo. The rub is going to come in as I am assuming I have that 150 million dollars to use next biennium plus the new 350 so I'm thinking I might have 500 next biennium. If you do this now, you will take 60 million dollars away from that money. In addition, you have committed more money, probably, than Fargo can utilize anyway, and that 60 million will be unavailable to other projects. We will have to cut much deeper into those other projects.

Chairman Porter: All of the projects are funded inside of your current budget of 15-17.

Laschkewitsch: 13-15 is funded.

Chairman Porter: The next budget, 15-17, instead of starting out at 500 million, you would start at 440 million.

Laschkewitsch That is correct.

Chairman Porter: But, no current projects that have been run through the mill; that have come up through the water coalition that are in the current budget are affected by this. It would only be the next biennium's projects would start out with a less amount going through the start of that process.

Laschkewitsch That is correct.

Rep. George Keiser: Starting July 1, 2015?

Laschkewitsch: In four months is will start being a big effect. Right now we are trying to

get a budget through based on 930 million in new projects. The new revenue forecast is only 350 million. On the Senate side in appropriations we're working with that 350 forecast and this unobligated 150 million that the legislature didn't appropriate to us. It's going to be deep cuts in many, many areas.

Chairman Porter: It seems like the process or the part of the process that has created this bill and this situation is the diversion project, and the diversion authority. Whether or not Fargo has access to the funds they need to do the interior work is based on the vote of the diversion authority. Fargo wants the money allocated to the city of Fargo not to the diversion authority so they don't have to jump through those hoops inside of the diversion authority to get the money for the projects they know they need to do and you know they need to do.

Sandoe: I don't think there have been any hurdles with the county and those that have to sign on, they've been moving forward jointly every time it been Cass County and Fargo come hand in hand to the Water Commission to give an update. To my knowledge Cass County is not preventing Fargo from building dikes through the town.

Vice Chairman Damschen: I have a concern that they have cuts and have money sitting There. I favor raising the cap and put a directive in that 120 million can be used without the approval of the diversion authority.

Rep. Naomi Muscha: Looking at this table, the Cheyenne River goes through my district. In some respects we have similar issues as the Red River, because we are not ready to money on everything but we know the need are there and we are working on it, Valley City has bought out a lot of homes, the dikes are not up at this point, but they're coming. We are going to need money too.

Chairman Porter: Rep. Curt Hofstad what would happen if we changed unobligated to obligated so that they could through the water commission, have the flexibility to grab the money out of the Red River Water Supply Project Funds that are laying there. The

Northwest Water Supply funds that are laying there, if this project required more than what was available inside of the project and if we moved the 450 to 570 for the authorization of the project. That way if the needs were there we gave the water commission the flexibility to grab some of those other obligated funds. Then it wouldn't affect future budgets, it would allow the Water Commission the flexibility if the projects were dirt ready, to grab funds from those other projects that are just sitting there.

Rep. Curt Hofstad: I don't a problem with that, understanding that the 450 is an earmark, Those within the diversion authority are adamant about keeping it there. The Red River water supply is an issue that we need to protect and the issue with CHS and Jamestown coming at us. The other funds that the State Water Commission has the authority and does sometimes move those funds around, if there is an emergency. Adding to the 450, I don't know if that solves anything because we still have to fund that increase.

Chairman Porter: Maybe leave the 450 alone, just change unobligated to obligated.

Rep. Curt Hofstad: I have no problem with that, the angst is to protect the 450. To make sure that the 450 remains as is earmarked is very important.

Chairman Porter: I agree. I think if we use the work obligated, it gives them the ability to use some of those funds on dirt ready projects that are not part of the diversion project. We have the money sitting in obligated funds, until the law suit is complete that money is just sitting there, why not put it to beneficial use, knowing that we will come back to that and look at it. The Red River Water supply, we know the funds are sitting there, that if they're not going to be used right now, use it for this and come back and put the funds back in there.

Rep. Mike Lefor: Is it fair to ask you to give an estimate of what would be dirt ready this biennium in terms of dollars actually needed?

Laschkewitsch: 15-17 biennium, If we asked the sponsors every one of them will tell us

that their project is ready to go and they be funded immediately.

Bruce Engelhardt: Director of Water Development-State Water Commission

We can't answer that because of the federal aspects of the diversion project. They did get the project authorized this year, the City has been working very hard with the Corp to move that project forward. It's going to depend on what the appropriation is. If your question is, are we going to spend the 123 plus the 69 million, I think that it is unlikely that we are going to be able to move that quickly. How much of it will get spend is dependent upon how fast the CORP can move.

Rep. Mike Lefor: What I'm talking about is the 500 million. If you're allocate 500 million for the 15-17 biennium, are we going to compete with other projects in the state if we lift the earmark and say Fargo can apply for the 60 million for the levees verses the diversion at this time. Do we have enough money, from your viewpoint?

Laschkewitsch Going to 13-15 biennium we have included 419 million dollars carry over from the 13-15 biennium to the 15-17 biennium. This current biennium we are in, we are not going to get about 400 million dollars of the projects that we have approved, allocated, expended, we will bring them forward. From a cash basis, no we will not get all of that money spent and very likely in the next biennium will not get that spent. Where we run into a problem is we cannot commit or sign contracts for more money than we have revenue and committed.

Rep. George Keiser: The bottom line is, eventually we are going to approve the expansion of the dollars if need be. I would suggest that we approve raising the ceiling, at this point. However, access to the additional dollars are triggered by the utilization of all the current dollars within their budget.

Vice Chairman Damschen: A total of 75 million was appropriated and 15 has been spent, is that remainder available for this?

Sandoe: Yes.

Rep. Curt Hofstad I retract my amendment motion to amend HB 1415.

Rep. George Keiser seconds.

Chairman Porter closes hearing.

2015 HOUSE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee Pioneer Room, State Capitol

HB1415
2/6/2015
Job # 23432

☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A BILL for an Act to provide an appropriation to the state water commission; to provide legislative intent; to provide an exemption; and to declare an emergency.

Minutes:

Attachments 1

Chairman Porter opens hearing.

Rep. Curt Hofstad: Moves the amendment 01004.
Written testimony #1

Rep. George Keiser: Second.

Voice vote carries.

Rep. Curt Hofstad: Moves to a Do Pass as Amended.
Rep. George Keiser: Second.

Vote: Yes 12, No 0, Absent 1.

Carrier: Rep. Curt Hofstad

Chairman Porter closes hearing.

SH
2/6/15

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1415

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide legislative intent.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE INTENT - FARGO FLOOD CONTROL PROJECT FUNDING. It is the intent of the sixty-fourth legislative assembly that the state provide one-half of the local cost-share of Fargo flood control projects, including constructing a federally authorized Fargo flood control project and that total Fargo flood control project funding to be provided by the state not exceed \$570,000,000. It is further the intent of the sixty-fourth legislative assembly that the state water commission reallocate water project funding within its 2015-17 biennium appropriation as necessary to provide funding for eligible Fargo flood control project commitments."

Renumber accordingly

Date: 2/10/15
Roll Call Vote #: 1

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1415

House Energy and Natural Resources Committee

☐ Subcommittee

Amendment LC# or Description: see below 15.0876.01004

Recommendation: ☒ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar
Other Actions: ☐ Reconsider ☐

Motion Made By Rep Hofstad Seconded By Rep Keiser

Representatives	Yes	No	Representatives	Yes	No
Chairman Porter			Rep Hunsakor		
Vice Chairman Damschen			Rep Mock		
Rep D Anderson			Rep Muscha		
Rep Brabandt					
Rep Devlin					
Rep Froseth					
Rep Hofstad					
Rep Keiser					
Rep Lefor					
Rep Nathe					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Fargo Flood Control project funding

Date: 2/6/15
Roll Call Vote #: 2

2015 HOUSE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1415

House Energy and Natural Resources Committee

☐ Subcommittee

Amendment LC# or Description: 15.0876.01004

Recommendation: ☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☒ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar
Other Actions: ☐ Reconsider ☐ _____

Motion Made By Rep Hofstad Seconded By Rep Keiser

Representatives	Yes	No	Representatives	Yes	No
Chairman Porter	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Rep Hunskor	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Vice Chairman Damschen	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Rep Mock	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Rep D Anderson	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Rep Muscha	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Rep Brabandt	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>			
Rep Devlin	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>			
Rep Froseth	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>			
Rep Hofstad	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>			
Rep Keiser	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>			
Rep Lefor	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>			
Rep Nathe	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>			

Total (Yes) 12 No 0

Absent 1

Floor Assignment Rep Hofstad

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1415: Energy and Natural Resources Committee (Rep. Porter, Chairman)
recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends
DO PASS (12 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1415 was placed
on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide
legislative intent.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. LEGISLATIVE INTENT - FARGO FLOOD CONTROL
PROJECT FUNDING.** It is the intent of the sixty-fourth legislative assembly that the
state provide one-half of the local cost-share of Fargo flood control projects,
including constructing a federally authorized Fargo flood control project and that total
Fargo flood control project funding to be provided by the state not exceed
\$570,000,000. It is further the intent of the sixty-fourth legislative assembly that the
state water commission reallocate water project funding within its 2015-17 biennium
appropriation as necessary to provide funding for eligible Fargo flood control project
commitments."

Renumber accordingly

2015 SENATE ENERGY AND NATURAL RESOURCES

HB 1415

2015 SENATE STANDING COMMITTEE MINUTES

Energy and Natural Resources Fort Lincoln Room, State Capitol

HB 1415
3/27/2015
25532

- ☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature

Katie Oliva

Explanation or reason for introduction of bill/resolution:

To provide legislative intent.

Minutes:

3 Attachments

Chairman Schaible opened the public hearing. Representative Carlson was on hand to introduce the bill.

Representative Carlson: The bill before you deal with the interior flood protection for Fargo, we have been working on that for a number of years which has had a historic past of flooding. This is just for the inner city of Fargo itself; with that \$240,000,000 worth of need this bill addresses half of that cost. I will hand out the bill as it was handed out in the house the payment methodology is what needs to be addressed. See attachment #1. They have come in and readjusted what they consider to be 100 year and 500 year flood plans. Because of that there have been significant areas and cities that are going to be put into the floodplain requiring flood insurance that was not required before. The current one that was raised to 39.5 feet in Fargo brought 1,900 new homes into the requirement of flood insurance and if they raise it to the 41.5 that they are studying it would bring 20,000 homeowners in the city of Fargo into what is a very extensive flood insurance program. You need to addresses the safety of those neighborhoods so they can keep living there. Not only does it protect our cities but this is also designed to help our neighborhoods. As the original bill \$60,000,000 to be taken from the resources trust fund and the state treasury for the purpose of flood protection projects in the city limits for the period beginning June 30, 2017. There are shovel ready projects and it would allow only for a small portion to be done each year. The funding as it came out of the House made changes, for Fargo flood protection we would make a \$450,000,000 commitment. That doesn't identify how you are going to do it and we still need the \$60,000,000 to protect the largest city and county in the state. There are 228 in the Cass County. This is essential and the need was there to put the extra \$60,000,000 on that. I do know that living next to a flood protected area I know that the National Guard won't be on sandbags walking to protect my neighborhood. We need the state's insistence to help fund that cost. I do not know what the right vehicle is and if I had to identify the funding source. This bill doesn't do that it is adding money on to the promise that we made. In most cases we are trying to fund half of what the local share is.

Chairman Schaible: Which committee made the changes?

Representative Carlson: The changes came out of appropriations energy subsection. I supported it so it could get to you and if you look at this I had 2 options: a SIF fund or a water fund. We were anticipating \$1,400,000,000 in the SIF fund so I chose the water one because I was told we needed to move the money west. If it is changes it goes back to a \$60,000,000 for this biennium and \$60,000,000 for the next and identifying a funding source I believe is the proper way to pass the bill

Chairman Schaible: Can we do the project without this money?

Representative Carlson: Of the \$175,000,000 that they started with I believe there is about \$125,000,000 left and a lot have been used for engineering studies, protecting neighborhoods that would help and assist in the diversion as it goes forward but yes there is money there. If you do that and tomorrow the diversion is approved there won't be any money.

Chairman Schaible: \$124,000,000 and it has been there since 2009.

Representative Carlson: And we have guarded that with our lives trying to make sure if that diversion does happen we have allowed very limited use of that money for anything else since we started doing this. I think that we went \$30,000,000 in 2009 and in 2013 it was \$100,000,000 and in 2011 it was \$45,000,000-\$50,000,000.

Senator Armstrong: What is in the disaster relief fund now?

Representative Carlson: It is currently in the neighborhood of \$70,000,000. The new buckets are capped at \$20,000,000 because we felt that there will always be some kind of disaster and we have always funded them with deficiency appropriations, allowed the National Guard to borrow the money and we pay it back. We figured that setting a cap on the funds is a good idea.

Senator Armstrong: Do you know what the projected ending fund of the SIF is?

Representative Carlson: \$70,000,000-\$80,000,000 so there is a balance after the surge bill and the remaining bills have taken the money. The disaster fund is what we want it fund. It sounded great when we talked about it the picture changed.

Senator Triplett: Is the disaster relief fund writing broadly enough to use it before a disaster.

Representative Carlson: Yes.

Tim Mahoney: Mayor of Fargo. We have 4,000-5,000 residents coming in a year it is good growth within the city. and present April Walker what we have. We are trying to accommodate the neighbor

April Walker: City Engineer, Fargo. See attachment #2. (21:33-33:13)

Chairman Schaible: What is the timeline for the next 2 years?

April Walker: We have on average, about \$35,000,000 a year in projects. We are working with the city to a quarter mile to the north and quarter mile to the south. We are confident that we can do the work to make the funding the limitation right now is not progress but the funding.

Senator Murphy: Typically low spot just north of town would be taken care of by the diversion?

April Walker: Ultimately yes. If you look at the map in your packets that has the different colored areas, it had a red area up at the top that would have required some work if we were going to try and remove the area north of Cass County 20, there needs to be a northern line of protection. The cost benefit just isn't there yet because there is not a lot of development out there at present.

Senator Triplett: Not everyone is a fan of what is happening in Fargo, someone suggested that Davies was supposed to be built within the flood plain.

April Walker: I believe that area was not in the map of the flood plane at the time; Davies school was plotted and developed out there. They were required to do some things to elevate the land, there was work done prior to them opening that provided real protections from that future flood plain elevation but it was not certifiable protection that pulled that land back from the flood plain once it changed.

Senator Triplett: That is the point that you build a school and then you build around that. Are you convinced that what is happening around it meets the exceptions?

April Walker: Our leaders have been very proactive about staying above the board on this. Once we were in the flood plain, even if they go through the effort to remove the flood plain, elevate it and remove it we require people to flood proof, to an elevation of 41" which is the Corp's 100 year not the one FEMA adopted. The goal is that if the flood plain changes, and we know it will without a diversion, will be faced with the 41".

Tim Mahoney: We are no different from that, thank you for considering this bill. It is a big question for us and as much as we like west Fargo and ask for your thoughtful consideration.

Nancy Willis: Government Affairs Director Association of Realtors. As an organization we have taken a position in support of the Fargo diversion project and we support the intent of this bill. As you heard a large number of homeowners have been considered at risk of flooding according to FEMA. With the new map changes additional properties are considered at risk.

There was no further testimony and Chairman Schaible closed the public hearing on HB 1415.

Senate Energy and Natural Resources Committee

HB 1415

03/27/2015

Page 4

Additional written testimony submitted by Levi Andrist from Tammy Miller and Steve Burain with Valley Prosperity. See attachment #3.

2015 SENATE STANDING COMMITTEE MINUTES

Energy and Natural Resources Fort Lincoln Room, State Capitol

HB 1415
3/27/2015
25564

- ☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature

Kathie Oliver

Explanation or reason for introduction of bill/resolution:

To provide legislative intent.

Minutes:

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Chairman Schaible opened committee work on HB 1415.

Chairman Schaible If you want to amend it to fix it that is fine.

Senator Armstrong: I would like a chance to find a more direct funding source.

Chairman Schaible: We can amend it and work on it if you want.

Senator Triplett: Can we ask Senator Armstrong for his ideas for discussion?

Senator Armstrong: I wanted to fund \$30,000,000 out of disaster relief and \$30,000,000 from the ending fund balance of the SIF for the sixty and put promise language in for the next biennium. This isn't the diversion and it is an important issue given the price of oil right now.

Senator Triplett: I agree with everything you have said but my concern is the reluctance their reluctance to spend any of the money that they have stashed. Why we have to give them the full amount of what they think they need is a little disturbing to me.

Senator Armstrong: I do not like how we have done the diversion side of this in the past because I think you get into a chicken or the egg when the bank account gets down. That is why they protect their money, at the end of the day it is one of their cards. Who knows what the federal process will be so they want to be ready to go. I am not sure if that is their true intent on holding the money but that is how it was explained to me and that makes sense to me.

There was no further discussion and Chairman Schaible closed the committee work on HB 1415.

2015 SENATE STANDING COMMITTEE MINUTES

Energy and Natural Resources Fort Lincoln Room, State Capitol

HB 1415
3/30/2015
25610

- ☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature

Katie Oliver

Explanation or reason for introduction of bill/resolution:

To provide legislative intent.

Minutes:

1 Attachment

Senator Armstrong handed out the amendments for HB 1415 and explained amendment .02001 as it was written.

Senator Armstrong made a motion to adopt amendment .02001 with a second by Senator Murphy.

Senator Triplett: After our last meeting Senator Armstrong and I had a conversation about adding something in as it relates to the next biennium and the city of Fargo carrying such a large balance in their account. I am not sure that I appreciate that they have to keep all of the money that they currently have in a bank account; the state of North Dakota is going to support whatever the project is when the time comes.

Chairman Schaible: They are not the only ones who have money that has been there for a while, there is over \$37,000,000 that other projects are doing the same thing. We need to look at our policy on water projects.

There was no further discussion, roll was taken, and the motion passed on a 7-0-0 count.

Senator Armstrong then made a motion for a do pass as amended with a referral to appropriations with a second by Senator Murphy, roll was taken, the motion passed on a 7-0-0 count and Senator Armstrong carrying the bill to the floor.

Chairman Schaible then closed the committee work on HB 1415.

March 27, 2015

3/30/15
JAE

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1415

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide an appropriation to the state water commission; to provide legislative intent; to provide an exemption; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. There is appropriated out of any moneys in the strategic investment and improvements fund in the state treasury, not otherwise appropriated, the sum of \$30,000,000, or so much of the sum as may be necessary, and out of any moneys in the state disaster relief fund in the state treasury, not otherwise appropriated, the sum of \$30,000,000, or so much of the sum as may be necessary, to the state water commission for the purpose of providing funding for flood protection projects within city limits of Fargo for the period beginning with the effective date of this Act and ending June 30, 2017. The city of Fargo must apply for flood protection project funding, but the state water commission may not deny an application unless the funds are not intended to be used in accordance with provisions of this section. The city of Fargo may use the funds for costs directly associated with completion of interior flood protection projects within its city limits, including engineering and legal fees, right of way acquisition costs, land purchases, home buyouts, and construction costs. Funds may not be used for general operations or administrative costs.

SECTION 2. LEGISLATIVE INTENT - FARGO INTERIOR FLOOD PROTECTION. It is the intent of the sixty-fourth legislative assembly that a total of \$120,000,000 be provided by the state for flood protection projects within the city limits of Fargo during the 2015-17 and 2017-19 bienniums.

SECTION 3. EXEMPTION. The funds appropriated in section 1 of this Act are not subject to section 54-44.1-11, and any unexpended funds must be continued into the 2017-19 or subsequent bienniums and may be spent only for flood protection projects within city limits of Fargo.

SECTION 4. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

This amendment provides an appropriation of \$60 million, \$30 million from the strategic investment and improvements fund and \$30 million from the state disaster relief fund to the State Water Commission for providing funding for flood protection projects within city limits of Fargo.

Date: 3/30/2015
Roll Call Vote #: 1

**2015 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1415**

Senate Energy and Natural Resources Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number .02001

Action Taken Adopt Amendments

Motion Made By Senator Armstrong Seconded By Senator Murphy

Senators	Yes	No	Senators	Yes	No
Chairman Schaible	X		Senator Murphy	X	
Vice Chair Unruh	X		Senator Triplett	X	
Senator Armstrong	X				
Senator Hogue	X				
Senator Laffen	X				

Total (Yes) 7 No 0

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

**2015 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1415**

Senate Energy and Natural Resources Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass as Amended and Re Refer to Appropriations

Motion Made By Senator Armstrong Seconded By Senator Murphy

Senators	Yes	No	Senators	Yes	No
Chairman Schaible	X		Senator Murphy	X	
Vice Chair Unruh	X		Senator Triplett	X	
Senator Armstrong	X				
Senator Hogue	X				
Senator Laffen	X				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Senator Armstrong

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1415, as engrossed: Energy and Natural Resources Committee (Sen. Schaible, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1415 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide an appropriation to the state water commission; to provide legislative intent; to provide an exemption; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. There is appropriated out of any moneys in the strategic investment and improvements fund in the state treasury, not otherwise appropriated, the sum of \$30,000,000, or so much of the sum as may be necessary, and out of any moneys in the state disaster relief fund in the state treasury, not otherwise appropriated, the sum of \$30,000,000, or so much of the sum as may be necessary, to the state water commission for the purpose of providing funding for flood protection projects within city limits of Fargo for the period beginning with the effective date of this Act and ending June 30, 2017. The city of Fargo must apply for flood protection project funding, but the state water commission may not deny an application unless the funds are not intended to be used in accordance with provisions of this section. The city of Fargo may use the funds for costs directly associated with completion of interior flood protection projects within its city limits, including engineering and legal fees, right of way acquisition costs, land purchases, home buyouts, and construction costs. Funds may not be used for general operations or administrative costs.

SECTION 2. LEGISLATIVE INTENT - FARGO INTERIOR FLOOD PROTECTION. It is the intent of the sixty-fourth legislative assembly that a total of \$120,000,000 be provided by the state for flood protection projects within the city limits of Fargo during the 2015-17 and 2017-19 bienniums.

SECTION 3. EXEMPTION. The funds appropriated in section 1 of this Act are not subject to section 54-44.1-11, and any unexpended funds must be continued into the 2017-19 or subsequent bienniums and may be spent only for flood protection projects within city limits of Fargo.

SECTION 4. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

This amendment provides an appropriation of \$60 million, \$30 million from the strategic investment and improvements fund and \$30 million from the state disaster relief fund to the State Water Commission for providing funding for flood protection projects within city limits of Fargo.

2015 SENATE APPROPRIATIONS

HB 1415

2015 SENATE STANDING COMMITTEE MINUTES

Appropriations Committee Harvest Room, State Capitol

HB 1415
4/6/2015
Job # 25818

- ☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature

March for Aline DeBer

Explanation or reason for introduction of bill/resolution:

A BILL for Act for an Appropriation for the State Water Commission

Minutes:

Testimony # 1 - 2

Chairman Holmberg called the committee to order on Monday, April 06, 2015, at 9:30 am in regards to HB 1415. All committee members were present. Sheila M. Sandness, Legislative Council, and Becky Keller, OMB, were also present.

Representative Al Carlson, District 40. I went to Natural Resources, how are you going to fund something, one for diversion and one for interior flood protection in Fargo. In some years we have taken some of that money and along with city money and we have put that money into protecting the city in the areas of the city that are very vulnerable to flooding no matter what happens to diversion. And Fargo has done it doing it by themselves and they add sales tax, and special assessments that they have done to protect those neighborhoods. Historically we're flood prone and during the last two floods I could feed coffee and cookies to Natl. Guard. Now that is no longer a case, the question was, this is a 50/50 match. The city of Fargo will do the inner city, \$240M projects ready to go. The other half of the \$120M that is being asked for to help protect the inner city. Originally we had talked about getting the whole \$120 Million at one time and I went to the city and I said two things, are the projects ready? Yes. Do you have contractors? No. Because that is just a tremendous amount of work to try and get done in a 2 year time frame. So the thought was to divide it up into 60/60. The next question do you add this money on top of the budget, of the \$450 Million that has been designated for the diversion, the protection of the whole area. If you add that \$450 and make it \$570 or do you come up with cash and try and pay for that match of the \$60 Million dollars. This bill took the approach of \$60M being \$30 from the disaster relief and \$30 from the SIIF fund. Already they have redone the flood plain and 1900 homes have never been in the flood plain just got notices that they are going to require to have very expensive flood insurance. They're raising the dyke to 41.1/2 feet. The dike along- side of my house is built to 43 feet. Of that 41. 5 feet if that goes, to that in the new FEMA flood map has picked it, there is 20,000 additional homes required to have very expensive flood insurance.

Chairman Holmberg That is with the new unsubsidized federal loan program and that is extremely expensive for a homeowner.

Rep. Al Carlson: It could be in the neighborhood of anywhere from \$2000 to \$6000 a year, annual premium for those flood insurance policies. It would force a lot of people out of their homes when you're talking those types of numbers. I don't think it is any doubt that the largest city in the state, the fastest growing county in the state, it's very important to protect that. We do not need that on-fire like what happened to Grand Forks. We saw what happened to Minot, when that flood took over the city. I was there and went home from the flood in 2009 and when the Governor at that point in time had an evacuation plan to have all four lanes of the interstate leaving Fargo, and evacuating the city. Now I can tell you one thing the people weren't going to leave, they were going to stay and they were going to pretend to defend their houses, but they actually had this close to trying to evacuate a city of 100,000 people. We need to protect that city. The sidebar note is the very expensive flood insurance but the point is we need to protect that large economic center of the state of North Dakota. This method does and I am in agreement. They asked me how I you would fund this. We all know that there is little shortfall in the money we expected and the resources trust fund compared to what we had anticipated when I first talked about this in Fargo. We were anticipating over \$850 million dollars to be in the Resources Trust Fund and now that number sits at half of that. So, the plans had to be changed, but the need didn't. I am in favor of this plan. If there is a better idea out there I think it's crucial to make sure we protect that city.

Chairman Holmberg

V.Chairman Bowman: Are you going to build where the river is going through the city, to stop the flooding in Fargo, to build a dyke on both sides? Because I thought that was talked about before the last session when we had the \$400 million dollar proposal was build that dike on both sides of the river going through Fargo, isn't that what they did in Grand Forks? I am just trying to recall this.

Rep. Carlson, The biggest difference between Fargo and Grand Forks on building. By the way on Moorhead side of the river is higher than Fargo side of the river. There was never the intent to build a a big canal through Fargo. We need to hold that river in its banks the best we can, and not being an expert on diversion, most people will tell you that in addition to protecting these neighborhoods because now if you have to go up from 41 or 42 ft. that everybody is protected to you could sand bag to 43 or 44 feet and handle quite a flood but will it protect every neighborhood? This still leaves about 25% of the city that is just impossible to get these dikes build in unprotected which would need sandbags during a flood, so the answer is no, you couldn't do that. But you can do it on a number of chunks that you take your flood fight way down compared to what it was. Instead of 5 million sandbags, you might be down to 1 million sandbags, to defend the city.

V. Chairman Bowman: Do you have a map to show what you are going to do?

Rep. Carlson: There is a map, I don't have it. That could be made available to the committee. I don't have copies of that map. But there is a whole folder that they have where it talks about the mitigation and the floods and what they are doing and what they are

protecting and that could be made available to the committee. I can leave that with the Council for you.

Chairman Holmberg: This will go to the subcommittee on water, Senator Gary Lee, Chairman Holmberg and Senator Robinson .

Rep. Al Carlson: There is a lot of discussion about the value or the lack of value of a diversion. This is not that debate. This is a whole separate issue about defending the inner city, the city of Fargo. You can have that debate if you want, another time, but this is not that debate. This is about doing the best you can, like we have in other cities, to protect the city itself as the river flows through and I can tell you that what we've done already really works. This would just help in hindsight and it's a 50% local, 50% state.

Senator Gary Lee: I am a little confused. I've been around this issue for quite a while to and listening and the State committed \$450M, one-half of the non-federal share; and that was going to be it. My understanding is that money can be used for anything essentially for flood protection for Fargo with the exclusions of they can't dig the ditch until there is federal money available and the purchase of the dwellings. If you look at their balance sheet they've got about \$114 Million dollar sitting there that hasn't been spent that has been allocated plus the budget that we sent over had another \$69Million in there. What's wrong with spending the money that already exists there for Fargo flood protection? We seem to be separating the issues now when my understanding all along has been that \$450 Million was for flood protection for Fargo, no matter what that took. Whether that was the diversion or the internal dikes. Now I am hearing a different story than I understood for the last 5 or 6 years.

Rep. Al Carlson: The \$900 Billion dollars was going to be the state share of a diversion. Not talking interior flood protection. Now as you know this has been soft sold by a lot of people because of the objection upstream and downstream to the diversion. But the reality is that if you are going and if the ditch is approved some call it a dike, if you happen to be south of town, some call it the diversion or some call it a ditch. But if you were to say tomorrow that they got approvals to go and they met the criteria that we put in statute that they had to be in agreement with the Water Commission and they had to be Federal funding, they had to be Federal authorization if those were met, our share that we've committed to just for the diversion, would be \$450Million dollars. Now we've allowed them to take some of that money for other things, land acquisition, engineering and those kinds of things. Whether or not I am a big fan of the diversion or not is not part of this debate. But you could say that this is an add-on. I think it is an important add-on because it could take us 8-10 years to build that diversion. So now it is your commitment \$570 Million it probably is. Should we use part of that money that is out there, you could if it hasn't been spent. But then how do you keep your \$450 Million dollar commitment when that actually gets authorized and starts. That is for us to decide as policy makers. I think it is crucial to do the interior stuff. But if that other part does start I believe we have made a commitment to it.

Senator Mathern: I agree with this internal stuff has to be done no matter what the other debate is. I am wondering if this were to pass, do you know if all of the clearance has been put in place and addressed to actually move the project forward? Have we met objections

from Minnesota or property owners or whoever that might address this? Can this go right to work or do we still have those issues to address?

Rep. Al Carlson: There are still issues to address on the diversion itself. As far as the interior, we already have those designed and approved. I asked that specific question when it was asked in the House, are these actually shovel ready projects? We've been snuckered a few times on shovel ready projects, that aren't really shovel ready. These are ready to bid, and in fact they have them sitting on the desk to finalize the bidding to start them this spring if we give the approval here which is important.

Senator Sorvaag: You've been a part of the discussions and so have I, but I think to explain it is my understanding is right and like you've heard it different, the original version it was only going to need 30 foot protection in the city of Fargo. But because of the issues downstream and upstream the diversion foot print was reduced to not take as much land and run more water through town. So my understanding and if I am correct we need to still protect the 37 to 38 feet in a major flood even with a diversion so this is not a temporary until the diversion, we still need a lot of that, that's way I've understood the argument all along.

Rep. Al Carlson: It kind of goes with Senator Lee's question. Are they separable or inseparable when you do the two? The point is this is a good backdrop for that even if with the diversion we would probably be doing a lot of sandbags if we had the major flood like we had in 2009. Are they crucial? I think the interior stuff is crucial as we wait for the time line to see what happens on the rest of that diversion. As you understand and if you've been following the valley news at all, there was an Amicus brief filed, a friend of the court measure filed by the state of Minnesota, for the upstream coalition folks to enjoin in their lawsuit. We in turn filed a Friend of the Court siding with the Corp of Engineers and the City of Fargo and the Diversion Authority so there is already litigation in process. Whether the judge throws all that out or not, I don't know but these are both important. I just believe it is going to take an awfully long time for that to get approved and started and our process that we started on, and by the way we charged the sales tax so when you come to Fargo, you buy things you help pay that half-cent sales tax. But that only raises about \$19 Million dollars a year. Well at a \$240 Million dollar price tag, it is going to take you forever to do the work that needs to be done because this requires buying houses, moving them out of the way. It gets land acquisition along to build dikes along areas where there are low lying houses and they are going to have to go. So, there is things that will have to be done. I've already lost about 25 to 30 homes in my district, that they've had to move out because of the work they've already done on the channels or canals or drains that come in actually they are rural creeks that came into the city of Fargo, and went right through the heart of my district. So we've lost a huge tax base already of houses that have had to be moved because they were in the wrong place and you couldn't defend the city when they were there. So this will be used for lots of things but moving dirt is a big deal and getting those in place is important.

Senator Heckamen: Rep. Carlson since I am new sitting on Appropriations I am just wondering if you brought this idea into the 2011 and 2013 sessions also or is this the first time you have brought this forward?

Rep. Al Carlson: Well I actually was involved a lot in the language and last time I just got the absolute tar beat out of me because I said they shouldn't start the diversion and they should be allowed to use some of this money for other things until they have the Federal approval so this is a different form, but the same concept. They are talking about protecting not only the whole area but the interior part of the city.

Chairman Holmberg: There is another concept that has drifted around yet and hasn't found a perch and that is as Senator Lee said there is about \$114 Million cash lying there waiting for something to happen on the diversion, but that could open up in two months or it could open up in 4 years. Was there any discussion in the House when you looked at this bill of utilizing the money from the \$114 Million but also having in there a line of credit so that if something occurred and the diversion could go forward which we have authorized but has to be but they would have that money available so they could utilize it for diversion if that is approved and it is somewhat similar but not exact with what we did with the medical school the last time although now we appears we are going to pay for it. We allowed a line of credit. Was that part of the discussion or is that just one of those things that still is being thought of but nothing has happened on it?

Rep. Al Carlson: I believe we have the Water Budget on our side now and as my committee members are doing their research, I think we've identified over \$200 Million dollars of authorized projects that haven't been funded. The question is when the money pool went way down, should you be using some of that money for immediate projects with a back stop for those projects if in fact they do start to happen. The answer is if we're in agreement that we can do a line of credit, to make a real original promise whole, then its' okay. Because we would obviously be paying it back out of money that would be future collections or Resources Trust Fund. So yes is that an option, that is a thought but the concern that I have is that we don't break the promise we've already made. If we have a backstop for that; that is reasonable then I think you can take a look at that. But there is a lot more than just the Fargo money sitting there. There is about another \$100 Million dollars of other projects that are sitting there unspent.

Senator Gary Lee: I think if the money is there to be spent, and they are ready to go I certainly want Fargo to be protected and give them the dollars they need to make that happen. I think the dollars are there to protect them from the internal flood. I don't think it's a couple hundred million I guess over time. But if we could use the process that are in place to fund the balance that they need if we're \$570 if that is kind of the numbers we are working with. It seems like that would be a smoother process rather than kicking out some of the people that are already in line for dollars that are needing to be funded. If you're taking money out of the Disaster Relief Fund the intent of that fund wasn't to build dikes it was to pick up the pieces after the fact so that we have a fund to be able to do that. So we're kind of violating the intent if were taking money out of there I think too, so if we could use the money that is already authorized and ready to go and they can use it for the things they need to do internally I think that would be a better approach and them use the line of credit kind of language or something if that would be appealing to you to just to make sure that we're satisfying the neighbor.

Rep. Al Carlson: Well I will give you a little history about how this all started. I disagree on one thing and that is about the disaster relief fund. There never was one until several

biennium's' back that we established. Senator Stenehjem was still here at that time. We were trying to decide how much of that oil money should go into the General Fund and we were always deficiency funding disasters. I agree with that part. But we never envisioned that it would have \$75 to \$80 Million dollars setting there and we're accused of having all these buckets so were not using so there is a bill that has been through the House and the Senate and I am not sure where the final passage is but where it caps at \$22 Million. I think you guys have the bucket bill over here on your side. The reason for that is we always realize that we need some of that money but there is some additional money. When I came in and talked with the Governor about this he said don't take it out the SIFF fund, well I didn't realize he had plans for all of that money, but, he said take it out of the Water Resources we got a lot of money. So my first bill came, Water Resources Trust Fund and of course that money went to zero, so then my plan B was how do you find revenue to cover this if you are going to have an idea? So, do I disagree with your logic, as long as those numbers are increased in the line of credit is established I don't disagree with that. Because then we're keeping our promise and we're doing what we are doing just protecting the fastest growing county in the state. I know there is a lot of emphasis is out west, but Fargo, Cass County is the fastest growing county in the state of North Dakota. We need to protect that metropolitan city as best as we can. I tell you that is important as protecting any other part of the state, because it is an economic generator for the state. So we need to do that, whether or not your methodology or not, were not disagreeing on that but I do believe that there is some funds there in the Disaster Relief Fund and the proper thing to do is to cap it. What we do with that money put it in the bank or whatever we do with it, is your choice. But that was why we tried to find it and not throwing it out and saying get it.

Senator Gary Lee: Well of course. Do you think there is any inflexibilities in the money we've allocated already in terms of them spending it? I don't see it. I see that they can't spend it on dwellings and they can't begin to dig the diversion until the federally authorized. I think they have met all the other criteria but is there anything else in there that you're seeing where they couldn't spend that money?

Rep. Al Carlson: I guess I have discouraged them from the spending of money Senator Lee simply because of what happens the day comes that the \$450,000 is required and they don't have it. That will move it back on to the backs of the taxpayers in the valley, and the city of Fargo. So I have discouraged them from using any more than they've had to of that money and some of what they've used we said don't buy houses with it. But then we did allow them to match the value of that they paid for houses and get that money back in terms of cash so if they spent half a million dollars on a house, they could get a half-million dollars back as a match to work on these interior dikes. So I guess you'll do as you will, but I just can't trust enough the importance of making sure that we do something to protect the inner city there.

Senator Heckaman: You referenced that ½ cent sales tax that you have, is that accumulating right now or is it being used on projects or what is it designated for and how is it being and what is the amount in there right now, in that fund?

Rep. Al Carlson: I would be guessing on the exact number. I can tell you that the one that the city has is being used on interior projects today. The county has a ½ cent sales tax that there banking for specifically designed for diversion, the county tax. Whether or not they

have bought out houses in the rural area, I know last time we allowed our money, some of our money that we put in last time to be used for the ring-dike at Oxbow. We said they could use up to \$30 Million dollars of that money because they claim that was part of the diversion process to protect that community. So they bought land and they moved the club house and built additional golf holes and there is a ring-dike and we said they could do that. Obviously, that portion that \$30 Million was nothing on the interior side of Fargo used for that.

Bruce Engelhardt: Director of Water Development for the State Water Commission here to provide some information on 1415 and presented written Testimony Attached #1- which suggests adding wording in proposed amendment, Testimony Attached #2.

Senator Mathern: Was this amendment suggested to the Policy Committee and what do they do with it if you did?

Bruce Engelhardt: No, this wasn't suggested to the Policy Committee because at that hearing it was a different bill that was being looked at. I just saw this engrossment last week.

Chairman Holmberg: we will close the hearing. It was I think a good one in that we got a lot of issues laid out on the table and heard from the sponsors what they feel is appropriate way to go, and not, so we're done with that.

2015 SENATE STANDING COMMITTEE MINUTES

Appropriations Committee Harvest Room, State Capitol

HB 1415
4/9/2015
Job # 25989

☒ Subcommittee
☐ Conference Committee

Committee Clerk Signature

Hammonson for Rose Lening

Explanation or reason for introduction of bill/resolution:

A BILL for Act for an Appropriation for the State Water Commission

Minutes:

Attachment 1

Legislative Council - Sean Smith
OMB -

Senator G. Lee called the sub-committee to order on HB 1415. **Chairman Holmberg** and **Senator Robinson** were also present. All members were present.

Senator G. Lee handed out amendment 15.0876.02002 - Attachment 1. He explained the amendments. They are based off of version 2000. Chris Kadrmas thought the 2000 version was the best version to go with.

It increases the state commitment to the Fargo flood control project to \$570M. The intent is to provide the additional \$120M of the \$570M

Fargo would have to match 50% of the \$120M after 7/1/17.

During the 15-17 biennium (the one we are allocating money for now) we'd do what we intended to do this biennium by adding \$69M. That is in current law and was put into the water commission budget. We would also commit to the \$570M.

If the construction dollars are not there we would not fund the last two bienniums of allocations. The federal dollars would have to be there in the end in order for that commitment to be made.

Chairman Holmberg stated that this has come a long way.

Senator Robinson agreed. These things are never easy, but this is a package that we can sell.

Chairman Holmberg: The idea of having this conference committee in conjunction with the water commission bill would be a good idea.

Senator G. Lee agreed. They've got it all mixed up. This \$570M commitment would probably end up being there if we passed this last.

Senator Robinson said the water Commission budget is going to be a tough one to settle given all the changes.

Senator G. Lee It has a new set of clothes.

Chairman Holmberg moved to accept the amendment 15.0876.02002.

Senator Robinson seconded.

Senator G. Lee yes

Chairman Holmberg yes

Senator Robinson yes

Motion carried and they will present this before the whole committee.


2015 SENATE STANDING COMMITTEE MINUTES

Appropriations Committee Harvest Room, State Capitol

HB 1415
4/10/2015
Job # 26000

- ☐ Subcommittee
☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

A BILL relating to the State water Commission appropriation regarding the Fargo diversion.
(Do Pass as Amended)

Minutes:

1. Christmas tree version of HB 1415 #15.0876.02002
2. Proposed Amendment # 15.0876.02002
3. First Engrossment of HB 1415 #15.0876.02000
4. Fargo Flood Control Proposal (Rep. Carlson)

Chairman Holmberg called the committee to order on Friday, April 10, 2015 in regards to HB 1415. All committee members were present. Alex Cronquist, Legislative Council and Becky Deichert, OMB were also present.

Senator Gary Lee: HB 1415 brought to us by the prime sponsor, Representative Carlson. It has to do with Fargo flood protection and the handout that is coming around includes the following attachments: Attachment # 1 - Christmas tree version of the Bill # 15.0876.02002 and Attachment # 2- Proposed Amendment # 15.0876.02002 and Attachment # 3 - First Engrossment of HB 1415 # 15.0876.02000. Also attached is # 4 - Fargo Flood Control Proposal from Representative. Carlson, a chart that I will use on how the payments would go out over the period that the amendment to the bill would be put in place. As you recall the state has committed itself to ½ of the nonfederal share of the Fargo Flood Control Project. That \$1.8B, the feds would pay \$900M, the state would pay \$450M and the local residents would commit to the remainder of the \$450M. And so last session the state committed to that \$450. With that, there were some stipulations that they needed to comply with in order to spend the money and the only things left are in terms of digging the ditch itself is that the federal dollars for construction have not come forward and the other stipulation is that they could not spend it on dwellings. But they could use that \$450M for any other flood control projects within that area. The bill that came to us included and additional \$120M for flood protection within the city of Fargo for dykes and levies and that money was committed from the \$30M this biennium from the disaster relief fund, another \$30M from the SIIF fund, so there would be \$60M going out in this biennium that we are budgeting for 1517. The next biennium would be another \$60M going out. The amendments that you see put a little different colored of lipstick on this leader's bill, and what it does is simply states that we will commit to the \$570M, and it has the same restrictions that they can't use it for digging the diversion itself unless the federal money

comes for construction and they cannot use the money for dwellings. The \$120 of that \$570 is for internal diking for the city of Fargo, specific to that, and that \$120 requires a 50% match so that's a \$240M project for that city, \$120 of it is being committed by the State, they are ponying up the other half. The money comes out of the resources trust fund. The distribution is over 6 biennium's. Of the first year of that biennium, the first year that money being meted out is this next biennium at \$69M and that is what we committed to in the 2020 Water Commission budget as it left here. The next 5 biennium would be about \$65M. The stipulation on all of those expenditures of \$65M being made are shown in your spread sheet at the end. They would continue through 2021, but if the federal money did not come through for construction the 2023 and 2025, the last two payments would not be made. (4.51)

Senator Gary Lee moved the Amendment # 15.0876.02002. 2nd by Senator Robinson .

Chairman Holmberg: This is involved also with the Water Commission budget, and it came from our Energy and Resource Committee. We have requested that the conference committees would be the same.

Senator Robinson expressed his appreciation to Senator Lee for doing a good job putting this together. We want to protect Fargo. We've got some major challenges going into conference committee but for now it makes good sense.

Senator Sorvaag I want to thank Senator Gary Lee for the work he did too. I don't know how it's going to all end up but I think it's been said Fargo needs this in-town protection. This is projects is ready to go. They can do this in a few years and they have their money to do their half.

Senator Mathern: Does this permit Fargo to proceed at a different rate than without this bill? Do the amendments here provide any acceleration to projects that they haven't had?

Senator Gary Lee: They have a budget that they have put out. I don't know if this speeds this up in terms of going forward but it certainly does allocate additional funding toward them. This biennium coming forward they have \$114M unspent from what they've already been allocated and this biennium that we are budgeting for would add another 69 to do that so they've got \$185M that they could spend on internal projects or however they had planned to spend that money.

Chairman Holmberg: All in favor of the motion say aye. It carried.

Senator Gary Lee: This is a hog house amendment and I talked to Representative Carlson several times about this and he is ok sending it out this way. I would move the first engrossed bill as amended. 2nd by Senator Robinson.

Chairman Holmberg: We have a motion and a 2nd by Senator Robinson . Would you call the roll on Do Pass as Amended on HB 1415?

A Roll Call vote was taken. Yea: 13; Nay: 0; Absent: 0. Senator Gary Lee will carry the bill. The hearing was closed on HB 1415.

April 8, 2015

4/10/15
JEL

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1415

In lieu of the amendments adopted by the Senate as printed on pages 1042 and 1043 of the Senate Journal, Engrossed House Bill No. 1415 is amended as follows:

Page 1, line 1, after "provide" insert "for Fargo flood control project funding requirements; and to provide"

Page 1, after line 2, insert:

"SECTION 1. FARGO INTERIOR FLOOD CONTROL PROJECT FUNDING REQUIREMENTS. Any funds designated by the sixty-fourth legislative assembly for Fargo interior flood control projects may be expended only for Fargo interior flood control projects, including levees and dikes, until a federal appropriation is provided for project construction for the Fargo flood control project, at which time the funds may be used for a federally authorized Fargo flood control project, for the biennium beginning July 1, 2015, and ending June 30, 2017. Except as otherwise provided, these funds may be used only for land purchases and construction, including right-of-way acquisition costs, and may not be used for the purchase of dwellings."

Page 1, line 6, after the first "project" insert a comma

Page 1, line 7, after the period insert "It is the intent of the sixty-fourth legislative assembly that \$120,000,000 of the \$570,000,000, be used for Fargo interior flood control projects and that any funds spent for Fargo interior flood control projects after July 1, 2017, require 50 percent matching funds from the Fargo flood authority."

Page 1, line 7, remove "further"

Page 1, replace lines 8 through 10 with "\$326,000,000 yet to be designated by the state for the Fargo flood control project be made available in equal installments over the next five bienniums. It is the intent of the sixty-fourth legislative assembly that funding for the Fargo flood control project will end June 30, 2021, if a federal appropriation has not been provided by June 30, 2021."

Renumber accordingly

Date: 4-10-15
Roll Call Vote #: 1

2015 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1415

Senate Appropriations Committee

☐ Subcommittee

Amendment LC# or Description: 15.0876.02002

Recommendation: ☒ Adopt Amendment
☐ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☐ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar
Other Actions: ☐ Reconsider ☐ _____

Motion Made By Lee Seconded By Robinson

Senators	Yes	No	Senators	Yes	No
Chairman Holmberg			Senator Heckaman		
Senator Bowman			Senator Mathern		
Senator Krebsbach			Senator O'Connell		
Senator Carlisle			Senator Robinson		
Senator Sorvaag					
Senator G. Lee					
Senator Kilzer					
Senator Erbele					
Senator Wanzek					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

*voice Vote
Carried*

Date: 4-10-15
Roll Call Vote #: 2

2015 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 1415

Senate Appropriations Committee

☐ Subcommittee

Amendment LC# or Description: _____

Recommendation: ☐ Adopt Amendment
☒ Do Pass ☐ Do Not Pass ☐ Without Committee Recommendation
☒ As Amended ☐ Rerefer to Appropriations
☐ Place on Consent Calendar

Other Actions: ☐ Reconsider ☐ _____

Motion Made By Lee Seconded By Robinson

Senators	Yes	No	Senators	Yes	No
Chairman Holmberg	<input checked="" type="checkbox"/>		Senator Heckaman	<input checked="" type="checkbox"/>	
Senator Bowman	<input checked="" type="checkbox"/>		Senator Mathern	<input checked="" type="checkbox"/>	
Senator Krebsbach	<input checked="" type="checkbox"/>		Senator O'Connell	<input checked="" type="checkbox"/>	
Senator Carlisle	<input checked="" type="checkbox"/>		Senator Robinson	<input checked="" type="checkbox"/>	
Senator Sorvaag	<input checked="" type="checkbox"/>				
Senator G. Lee	<input checked="" type="checkbox"/>				
Senator Kilzer	<input checked="" type="checkbox"/>				
Senator Erbele	<input checked="" type="checkbox"/>				
Senator Wanzek	<input checked="" type="checkbox"/>				

Total (Yes) 13 No 0

Absent 0

Floor Assignment Lee

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1415, as engrossed and amended: Appropriations Committee (Sen. Holmberg, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (13 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).
Engrossed HB 1415, as amended, was placed on the Sixth order on the calendar.

In lieu of the amendments adopted by the Senate as printed on pages 1042 and 1043 of the Senate Journal, Engrossed House Bill No. 1415 is amended as follows:

Page 1, line 1, after "provide" insert "for Fargo flood control project funding requirements; and to provide"

Page 1, after line 2, insert:

"SECTION 1. FARGO INTERIOR FLOOD CONTROL PROJECT FUNDING REQUIREMENTS. Any funds designated by the sixty-fourth legislative assembly for Fargo interior flood control projects may be expended only for Fargo interior flood control projects, including levees and dikes, until a federal appropriation is provided for project construction for the Fargo flood control project, at which time the funds may be used for a federally authorized Fargo flood control project, for the biennium beginning July 1, 2015, and ending June 30, 2017. Except as otherwise provided, these funds may be used only for land purchases and construction, including right-of-way acquisition costs, and may not be used for the purchase of dwellings."

Page 1, line 6, after the first "project" insert a comma

Page 1, line 7, after the period insert "It is the intent of the sixty-fourth legislative assembly that \$120,000,000 of the \$570,000,000, be used for Fargo interior flood control projects and that any funds spent for Fargo interior flood control projects after July 1, 2017, require 50 percent matching funds from the Fargo flood authority."

Page 1, line 7, remove "further"

Page 1, replace lines 8 through 10 with "\$326,000,000 yet to be designated by the state for the Fargo flood control project be made available in equal installments over the next five bienniums. It is the intent of the sixty-fourth legislative assembly that funding for the Fargo flood control project will end June 30, 2021, if a federal appropriation has not been provided by June 30, 2021."

Renumber accordingly

2015 TESTIMONY

HB 1415



Mayor Timothy J. Mahoney
200 3rd Street North
Fargo, North Dakota 58102
Phone (701) 241-1310
Fax (701) 476-4136

#1

1415

January 30, 2015

The Honorable Todd Porter, Chairman
House Energy and Natural Resources Committee
State Capitol
600 East Boulevard
Bismarck, ND 58505

Dear Representative Porter:

First of all, I'd like to express my appreciation and that of the residents of Fargo, to the North Dakota Legislators who have supported the City of Fargo in its flood control efforts.

We are very excited about HB 1415, the appropriations bill for the State Water Commission, sponsored by Representative Al Carlson, yourself, Representatives Thomas Beadle, Wes Belter, Jim Kasper and Blair Thoreson, and Senators Jonathan Casper, Kyle Davison and Tim Flakoll. We appreciate their hard work on Fargo's behalf.

The City of Fargo strongly supports HB 1415. The \$60 million included in the bill for flood protection projects within Fargo's city limits during the 2015-2016 biennium is very much needed. This will help toward the total \$240 million needed to get us to 100 year flood protection and keep us competitive in the area.

As many as 20,000 properties could be affected by FEMA's new Flood Insurance Map, thus requiring homeowners to purchase expensive flood insurance. With the appropriation of \$60 million, the City will be able to construct numerous flood projects, likely removing thousands of properties from the floodplain. The savings to residents will be tremendous.

Again, thank you so much for your assistance on this very crucial issue.

Sincerely,

A handwritten signature in blue ink, appearing to read "Tim Mahoney", written over a horizontal line.

Timothy J. Mahoney
Mayor

TJM:slo
mmtphb1415

#2.A

1/30/15
1415

January 30, 2015

Testimony of:

April E. Walker P.E., C.F.M.

City of Fargo, City Engineer

Honorable legislators, I would like to thank you for the opportunity to testify in support of HB 1415 to provide for an appropriation to Fargo for flood control. I have a presentation that I would like to submit to you for the record that chronicles the progress that Fargo has made in the area of flood risk reduction since 2009, as well as outlining the work left to be done.

As you are well aware the City has faced many flood fights that have been perilous in nature. Following the record flood of 2009 City leadership authorized staff to commit resources to the development of a plan to provide improved lines of protection. The result of that effort was the Citywide Comprehensive Plan for flood mitigation. To date we have implemented about 45% of this plan that is designed to provide certifiable protection against the FEMA 100 year floodplain of 39.4 feet.

Over 16 miles of protection has been constructed with 15 miles of levee, and 1 mile of floodwall. This has been at an expense of approximately \$82 M in construction costs alone. To further these efforts 173 structures have been acquired at a cost of about \$57 M and over 80 easements have been secured across private property.

At present there are an additional 3.5 miles of protection being constructed with an estimated project cost of \$100 M. When this work wraps up the comp plan will be approaching 55% completion. However, this still leaves over 13 miles to construct with an estimated cost of \$240 M and an additional 121 homes left to be acquired.

If you are familiar with Fargo's flood history then you know that defining the risk has been challenging. As we experience periods of successive major floods, each peak has a significant impact on the calculation of what one can expect to occur with a 1% chance, in any given future year. In other words each major peak increases the 100 year floodplain.

Following the 2009 Flood the USACE became engaged in the development of a flood risk reduction project for Fargo. This effort has developed into the FM Diversion Project. Through the USACE study, which included a new calculation of the 100 year floodplain that accounted for recent back to back floods, they determined the 100 year floodplain should be 41 feet.

Achieving certifiable protection for the 41 foot level requires 3 feet of freeboard. Doing this by building levees is not a practical alternative. This is why the City along with our partners in the Diversion Authority, are pursuing the FM Diversion. However, while that project is being developed, our City, this urban center of existing property, is at risk. The continued implementation of the comprehensive plan provides immediate benefits by reducing emergency measures, and providing real protection for property. As the comprehensive plan progresses we intend to seek accreditation from FEMA and pull property out of the floodplain lowering insurance rates. Long term, with a diversion in place these lines of protection provide for a capacity to protect from events that will exceed a 100 year level. This is crucial to the vitality and sustainability of a population center of over 100,000 people.

The bill in front of you will provide critical resources to advance this plan. The City of Fargo urges you to vote in favor of this bill.

Thank you.

#2 B

City of Fargo Flood Mitigation Strategy and Project Update

» January 2015



2B 1/30/15 1415

Floodplain Now & Future

- ▶ Now Effective Floodplain
 - 39.4 Feet River Gage (29,300 cfs)
 - Approx. 2,300 Impacted Structures
 - 7,200 Impacted properties
 - 27,600 Acres Impacted
 - After Diversion - This elevation will be close to 500-year flood levels
- ▶ Flood of Record 2009
 - 40.8 Feet River Gage
- ▶ Future of the Floodplain
 - USACE 41 Feet River Gage (34,700 cfs)
 - Approx. 19,400 Impacted Structures
 - 36,430 Acres Impacted



FARGO

52 MILES OF PROTECTION

29 MILES OF LEVEE
(Fargo)
5 MILES OF LEVEE
(Cass)

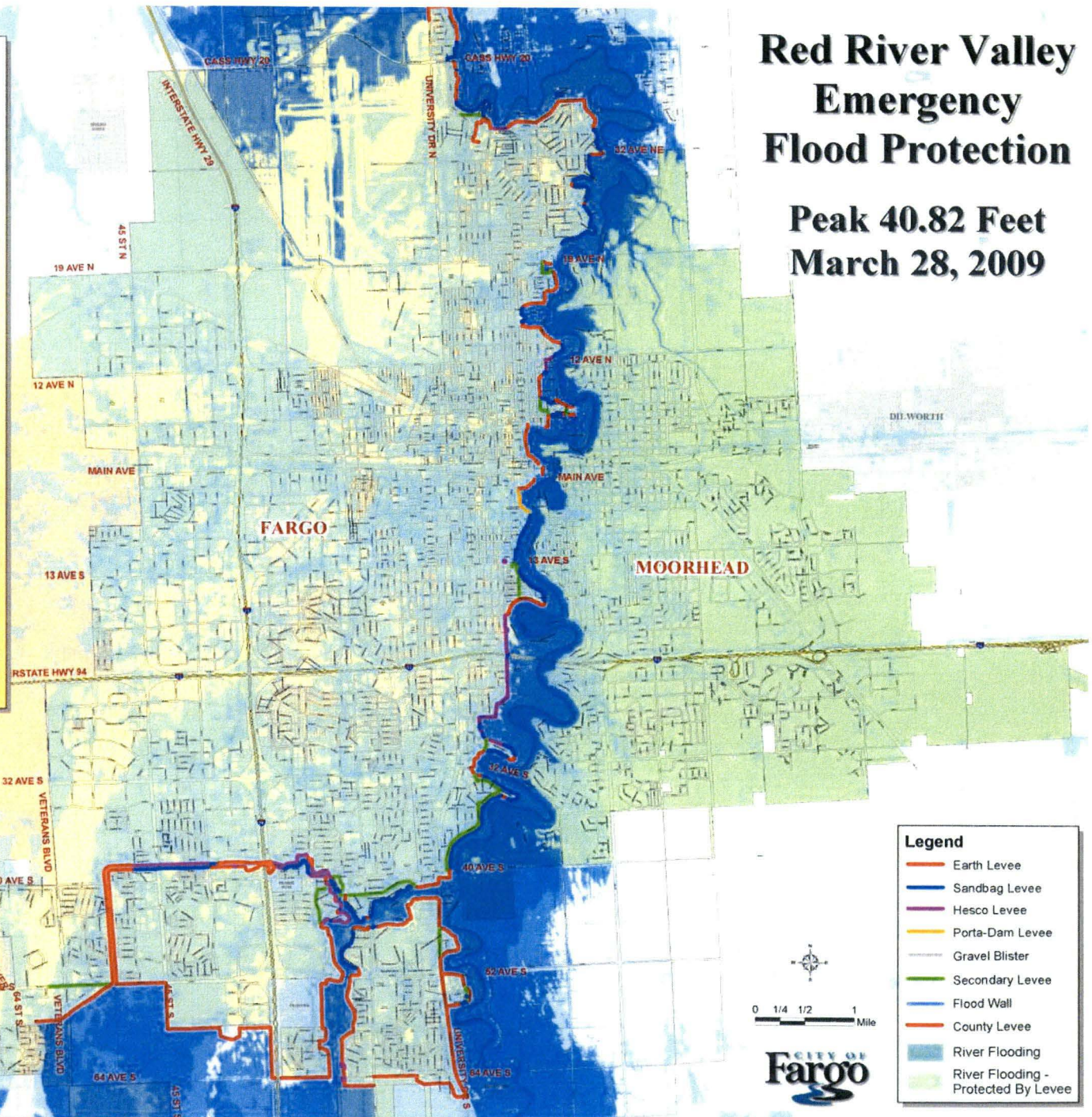
8 MILES OF HESCO

0.3 MILES OF
PORTA-DAM

10 MILES OF
SANDBAG

Red River Valley Emergency Flood Protection

Peak 40.82 Feet
March 28, 2009



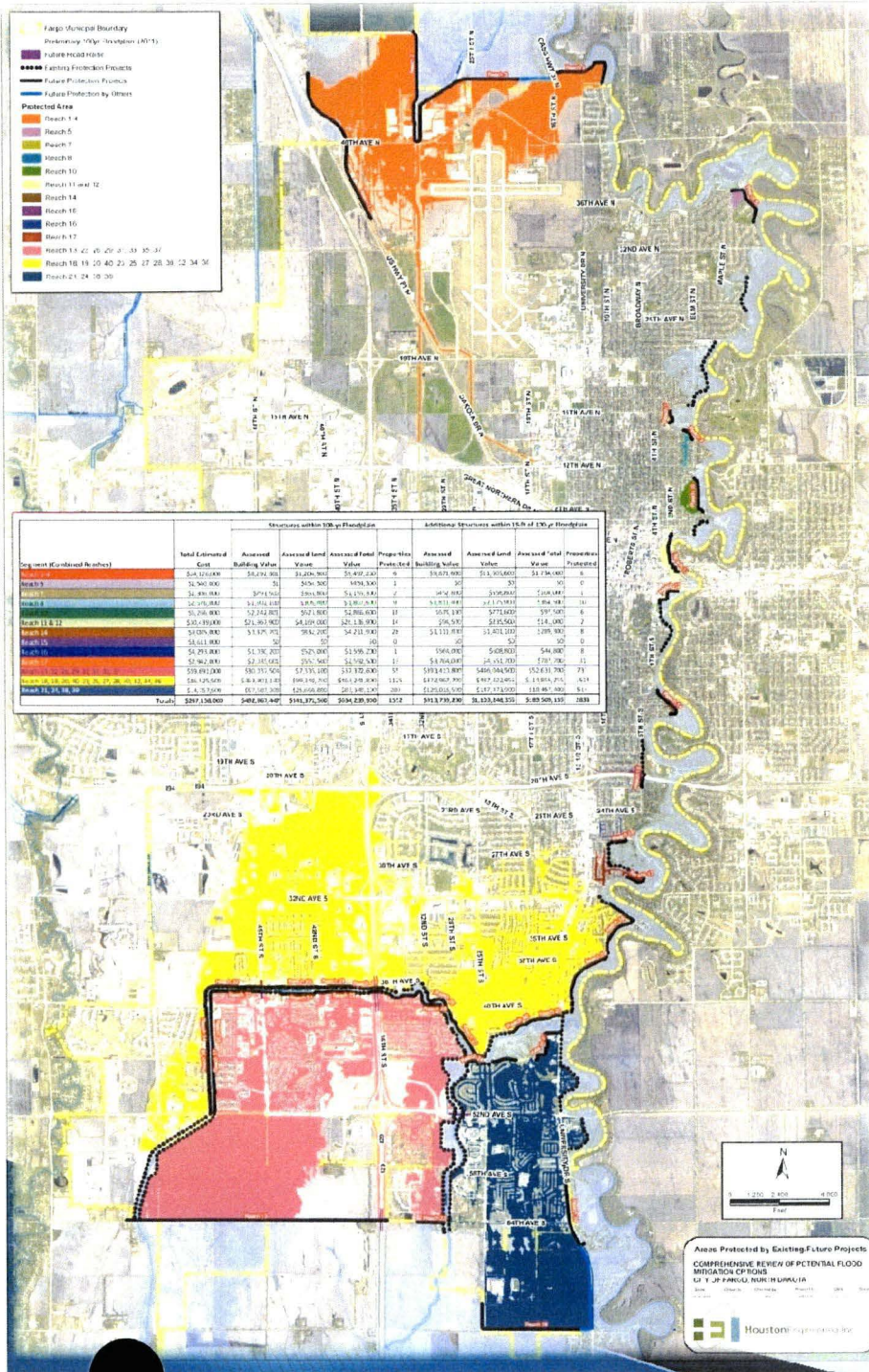
Comprehensive Plan

- Developed Following the Flood of Record with Final Draft in 2012

- Goal—Certifiable Protection From the FEMA Floodplain (39.4 Feet)

- Estimated \$247 M in Projects (2012 \$)

- Yellow area has largest concentration of impacted structures (1,500)



Why implement this Comprehensive Plan?

Short Term:

- Reduce emergency measures–immediate benefit from each project
- Provide real protection for existing homes that were built prior to the knowledge of the increased risk

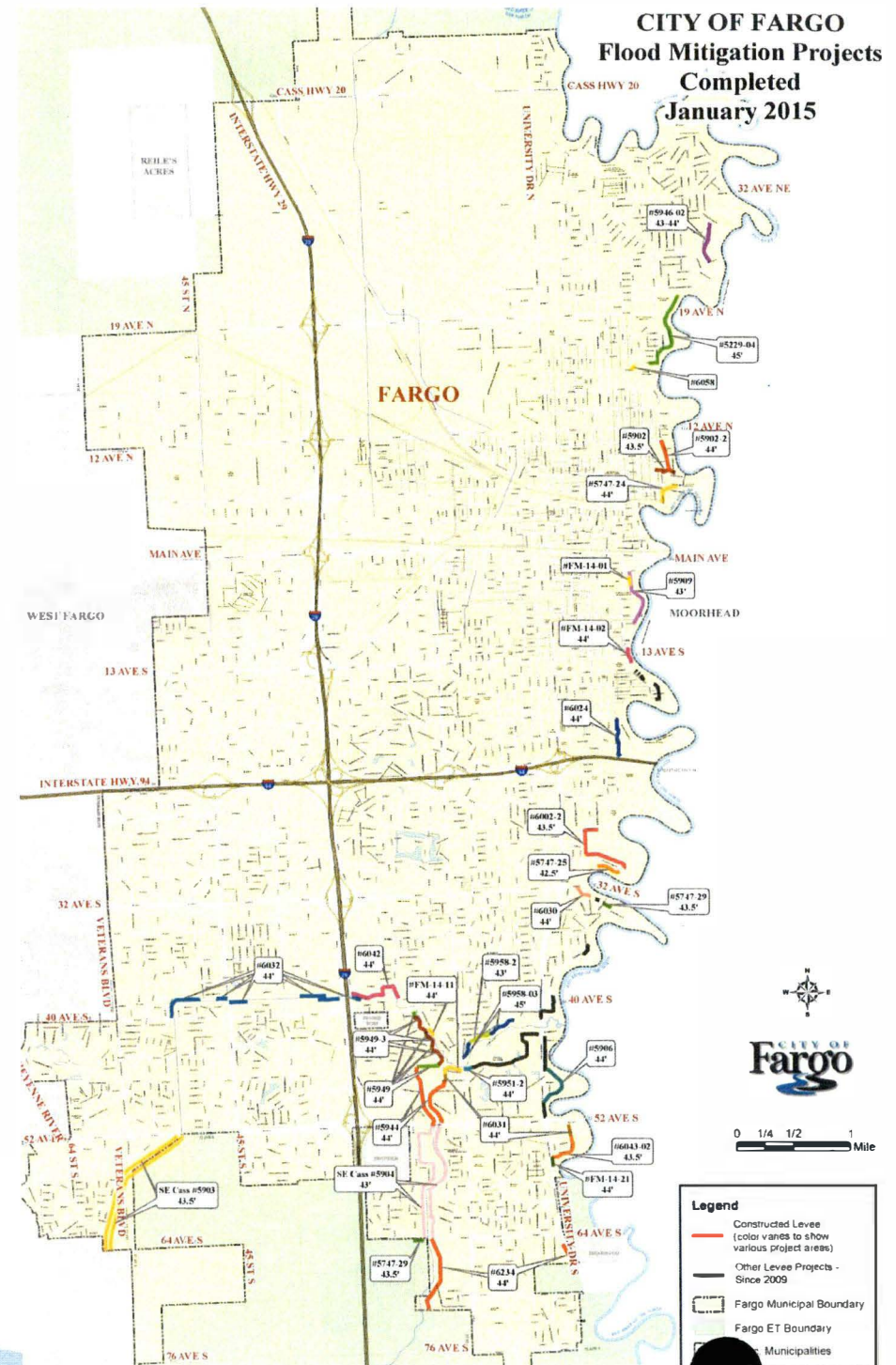
Long Term:

- Upon completion of Certifiable reaches–Keep Housing Affordable for more of our population by making flood insurance available to residents at the lowest possible rate and eliminating mandatory purchase requirements where appropriate
- Combined with the FM Diversion– Provide for greater than 100 year protection for the largest population center in ND



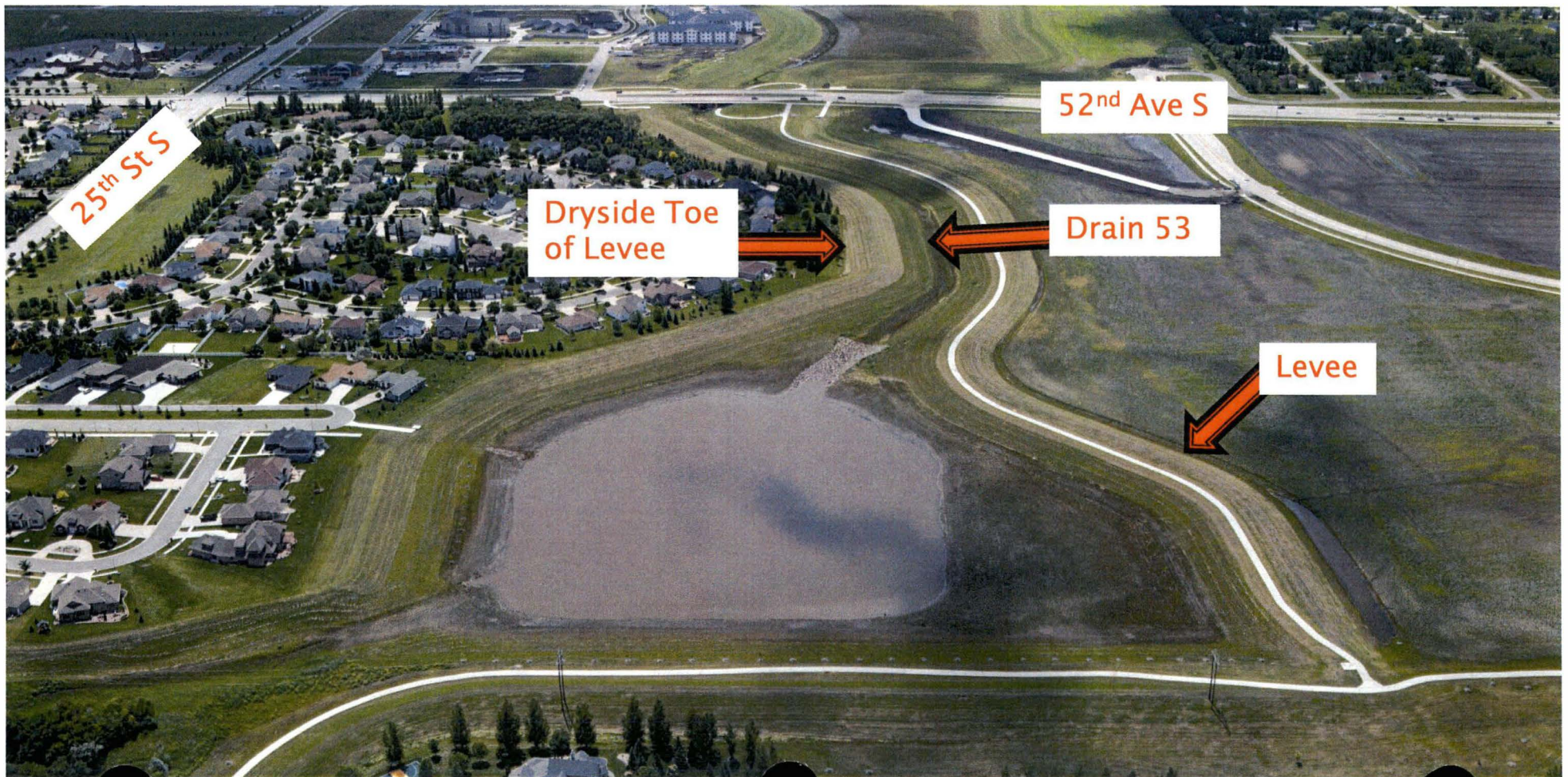
Completed Projects (Since 2009)

- ▶ Over 16 miles constructed
 - 15 miles of earth levee
 - 1 mile of floodwall
- ▶ Project Cost \approx \$82 million
- ▶ Reduces sandbags by approximately 4 million
- ▶ Required over 80 Private Property Easements
- ▶ 45% of the Comprehensive Plan Completed



Meadow Creek

- ▶ Completed 2011
 - Earth Levee
- ▶ Reduces sandbags by approximately 250k

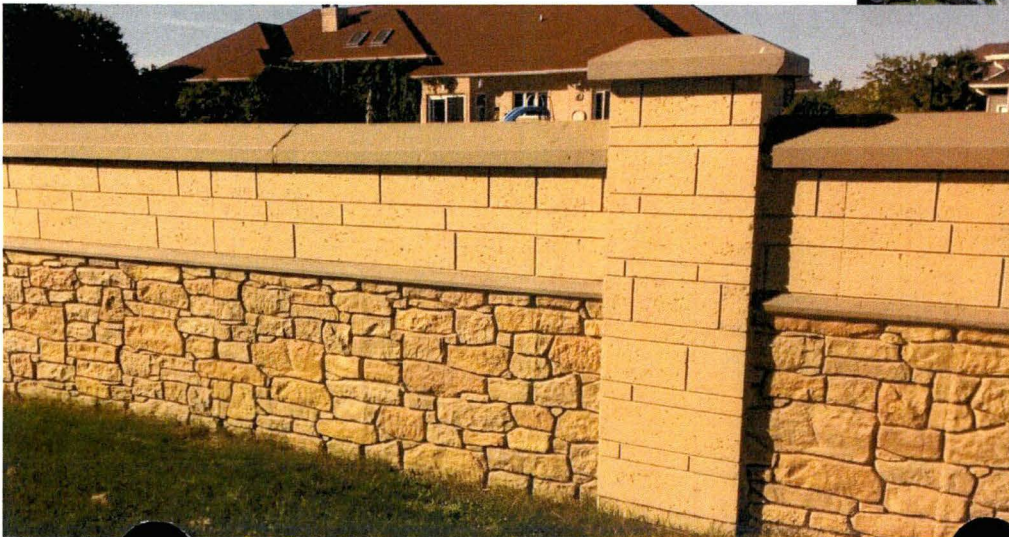


Meadow Creek 2009



Timberline

- ▶ Completed in multiple phases (2011 & 2012)
 - Combination of Earth Levee and Floodwall
- ▶ Reduces sandbags by approximately 800k



Timberline 2009



Rose Creek

- ▶ Completed Fall 2014
 - Combination of Earth Levee and Floodwall
- ▶ Reduces sandbag needs by approximately 400k





Rose Creek 2009



Mickelson Field

- ▶ Substantially Completed this Fall
- ▶ Eliminates the need for the Emergency Levee on Oak Street

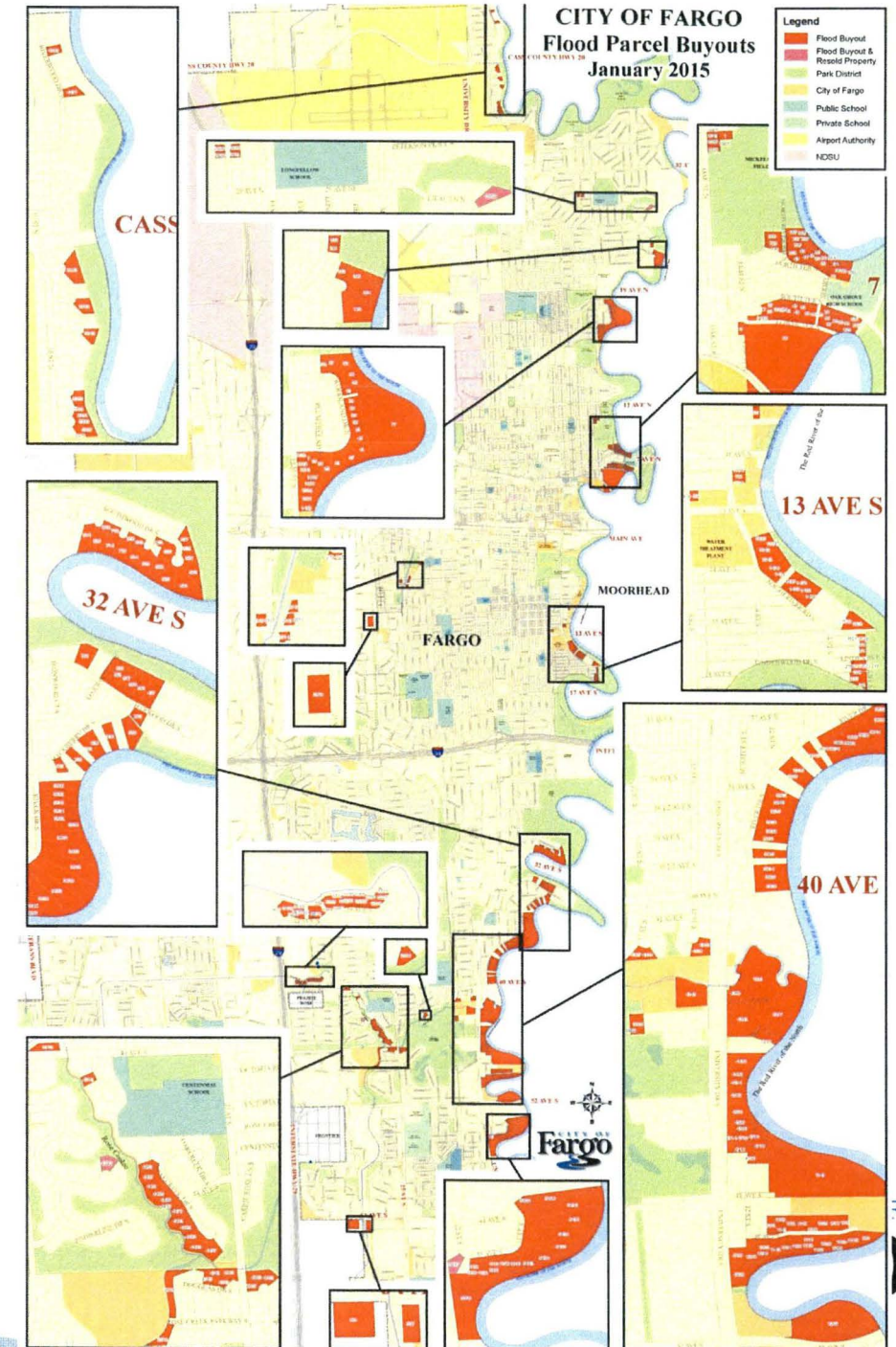


Mickelson Field 2009



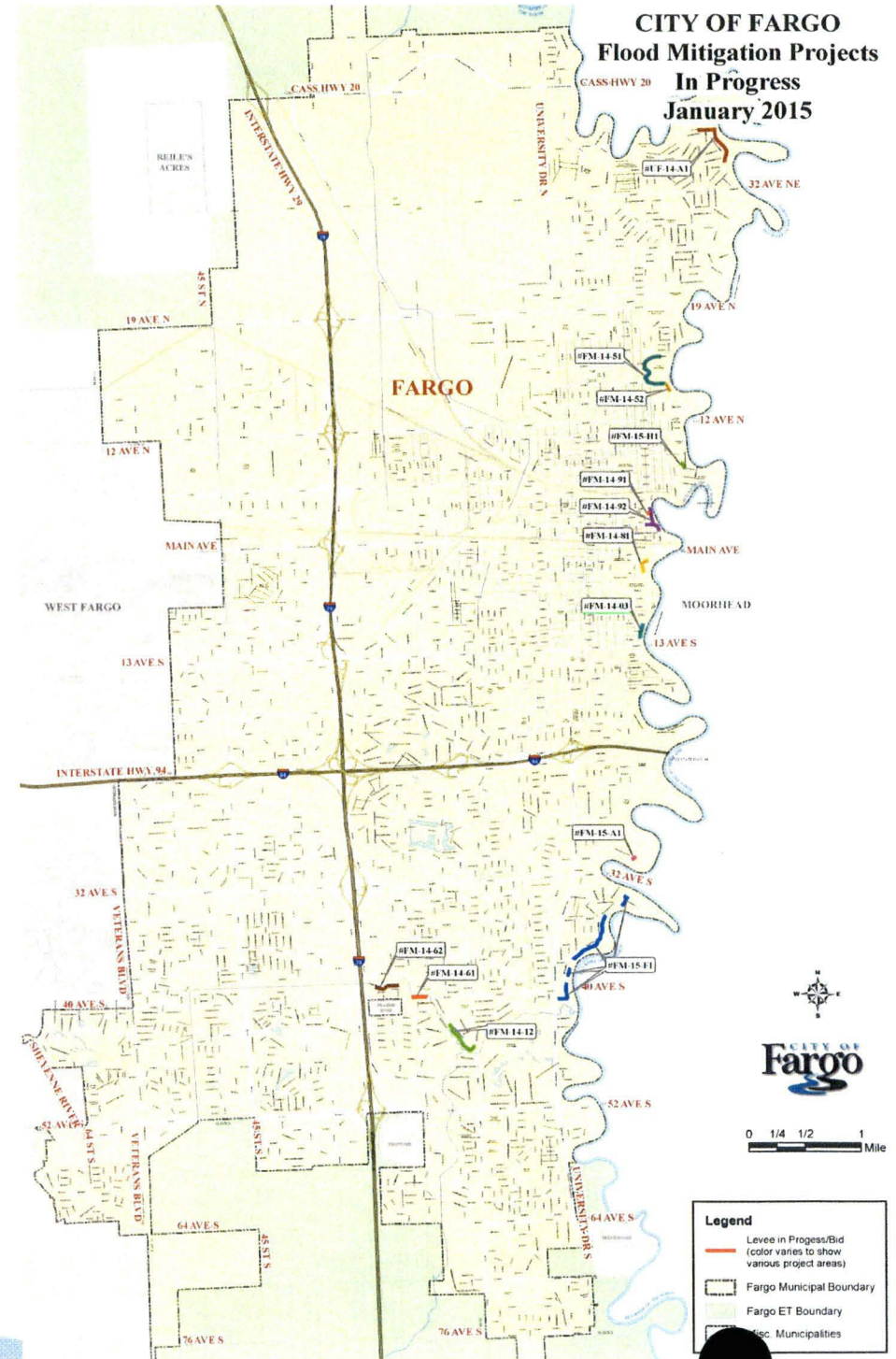
Property Acquisitions (Since 2009)

- ▶ 173 Properties Purchased
 - Over 300 since 1990
- ▶ At cost of over \$57 million
- ▶ Cass County purchased 14 additional homes needed
- ▶ Diversion Authority is in process of acquiring 15 additional properties within Fargo
- ▶ Remaining Properties Under Comprehensive Plan
 - 121 properties to be acquired
 - Approximately \$36 million



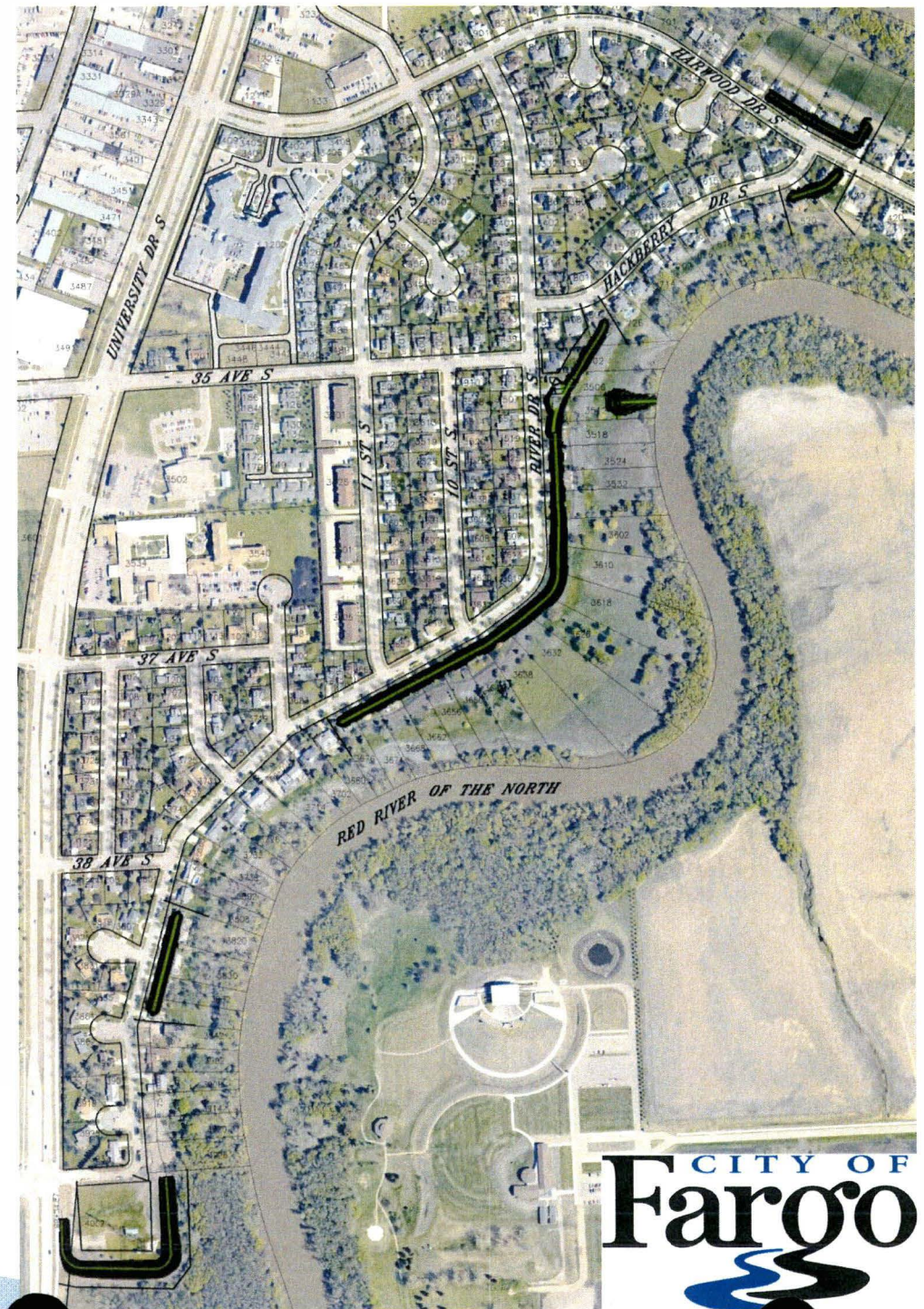
Projects In Progress

- ▶ Combination of Projects under Design or Construction
 - 6 Diversion Authority Led
 - 6 City of Fargo Led
- ▶ Over 3.5 miles in progress
- ▶ Project Cost \approx \$100 million
 - Construction Cost \approx \$67 million
- ▶ 55% of the Comprehensive Plan completed once these projects are done



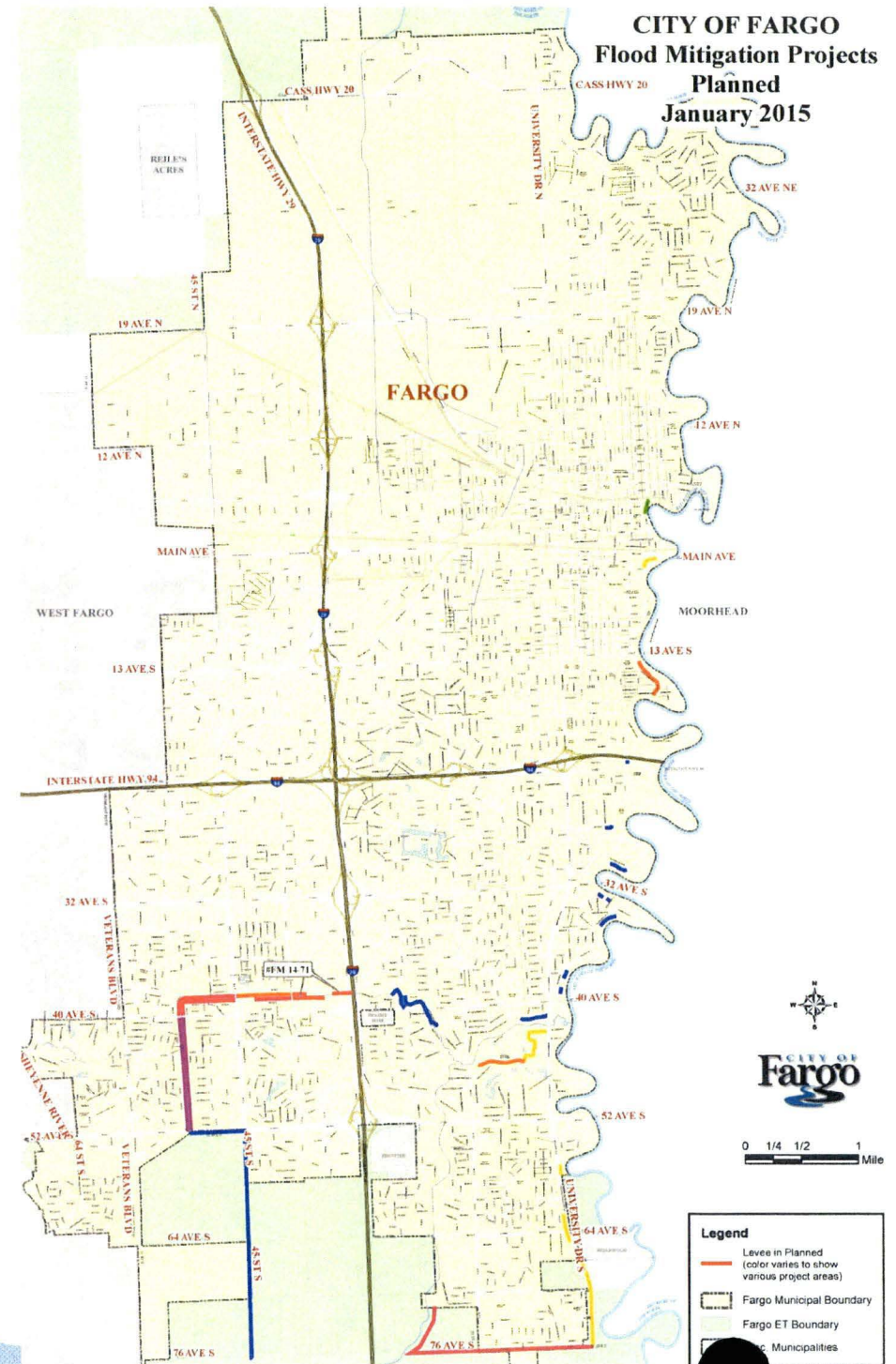
Harwood, Hackberry, River Drive Area

- ▶ Phase 1 – February 2015 Bid Opening
 - Levee Construction on Previously Acquired Properties
 - Construction of new storm sewer lift station
 - New lift station will replace two existing lift stations
 - Fall 2015 Completion



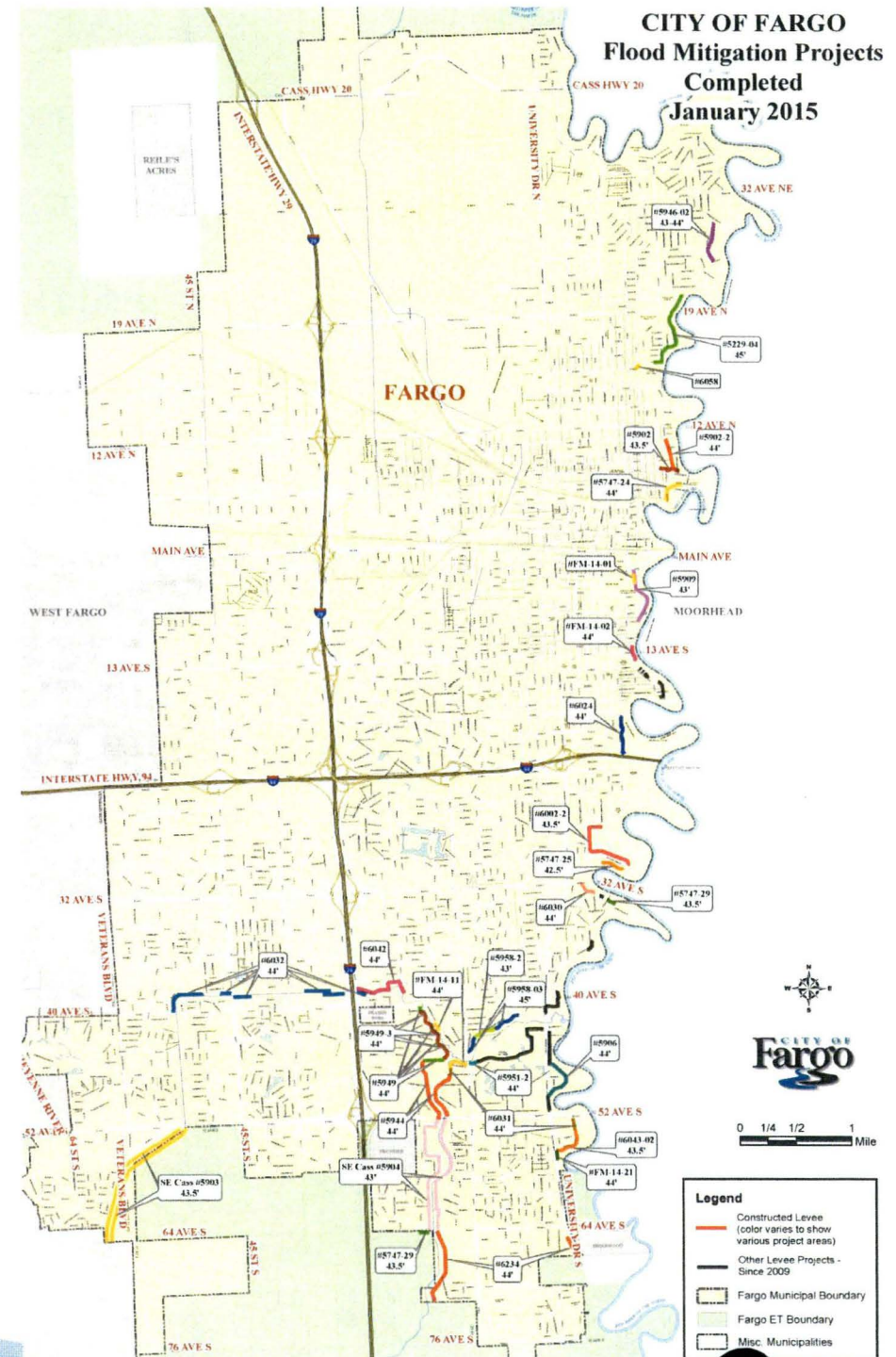
Remaining Projects

- ▶ Over 13.38 miles remaining
 - *excludes Cass County 20 Area
- ▶ Project Cost \approx \$240 million (2014 \$)
 - # Includes 2015 Planned Projects
 - # Does not include Diversion Authority More Flow Through Town Projects
- ▶ Type of Projects:
 - Levees along River & Legal Drains
 - Road Raises
 - Includes Interstate 29 at Drain 27
- ▶ 92% of the Comprehensive Plan would be completed



Summary

- ▶ Over 16 Miles of Improvements Totaling Over \$82M Since 2009
- ▶ Reduces required sandbags by approximately 4 million
- ▶ 45% of the Comprehensive Plan Completed
 - Additional projects under construction would bring total to 55% completed
- ▶ Outstanding Issues
 - With Comprehensive Plan completed would still need:
 - 7.6 miles of emergency clay levees
 - 3.2 miles of sandbag levees
 - Not all areas have feasible solutions
 - Events greater than
 - 39.5 feet
 - 42.5 feet
 - ?!?



So...Why implement this Comprehensive Plan?

Short Term:

- Reduce emergency measures–immediate benefit from each project
- Provide real protection for existing homes that were built prior to the knowledge of the increased risk

Long Term:

- Upon completion of Certifiable reaches–Keep Housing Affordable for more of our population by making flood insurance available to residents at the lowest possible rates
- Combined with the FM Diversion– Provide for greater than 100 year protection for the largest population center in ND



What About New Developments?

- ▶ The Comprehensive plan will provide the greatest benefit to existing structures.
- ▶ New Developments are required to elevate ground to the FEMA 100 Year Elevation and follow the proven floodplain management strategies put in place by Fargo's Leadership.
- ▶ Now that we have defined the risk with the FEMA and USACE floodplains we can build appropriately!



Successful Floodplain Management

Strategy Employed

- ▶ City Adopted a setback ordinance that requires newly platted areas to setback construction a minimum of:
 - 450' from the center of the Red and Wild Rice Rivers
 - 175' from the Sheyenne River and all legal drains

Advantages

- ▶ Protects Riparian buffers
- ▶ Provides room for a natural angle of repose on watercourse slopes
- ▶ Allows room for conveyance of water during flood events
- ▶ Compliments the Buyout efforts along the previously built on portions of the River



Successful Floodplain Management

Strategy Employed

- ▶ City Adopted a floodproofing policy that exceeds state & federal minimums to provide newly constructed homes protection from an event greater than the USACE 100 year floodplain

(based on 41' USACE Elevation + 1.2' freeboard)

Advantages

- ▶ Proactively manages new construction to provide opportunity for lower cost insurance now and in the future
- ▶ Protects against multiple sources of flooding including intense rainfall– not just spring melt events



Successful Floodplain Management

Strategy Employed

- ▶ City Adopted a floodproofing policy that exceeds state and federal minimums to provide newly constructed homes protection from an event greater than the USACE 100 year floodplain Elevation

(based on 41' USACE Elevation + 1.2' freeboard)

Advantages

- ▶ Proactively manages new construction to provide opportunity for lower flood insurance premiums now and in the future
- ▶ Protects against multiple sources of flooding including intense rainfall– not just spring melt events



Successful Floodplain Management

Strategy Employed

- ▶ City worked with the Home Builders Association and Industry Professionals to update the design for floodproof foundations

Advantages

- ▶ Structurally Sound and proven over 40 years to reduce damages
- ▶ Approved by FEMA for a Continued Basement Exception that allows for lower flood insurance premiums on new construction
- ▶ Protects against multiple sources of flooding including intense rainfall– not just spring melt events



For More Information Please Visit:

www.cityoffargo.com

www.fmdiversion.com

www.fargofloodinsurance.com

Prepared by City of Fargo
Engineering Department

Contact:
April E. Walker P.E., C.F.M.
City Engineer
awalker@cityoffargo.com
(701)-241-1554



Testimony of Mark Nisbet, Xcel Energy
Business Leaders Task Force for Permanent Flood Protection
HB1415
January 30, 2015

Chairman Porter and members of the House Energy and Natural Resources committee, my name is Mark Nisbet, I am a Fargo resident and the North Dakota Principal Manager of Xcel Energy. I have also lived and worked in Grand Forks and Minot and returned to both of those communities to help in their flood recovery efforts.

In Fargo, my home was close enough to the Red River that for three years in a row I moved all my furniture from the basement to the upstairs. I felt that I should not be distracted from my duties with the company during the flood season. I sold my house and my bright idea was to move to the 4th floor of the Park East Apartments. It is a well maintained property, home to many residents who have lived there for more than twenty years. That facility will now have to make way for in town flood protection and I will be moving again. I feel that is a price worth paying to provide long term flood protection for the community. The inconvenience of a preemptive move is nothing compared to the heartbreak of losing your home and potentially your job to the whims of mother-nature. Our company, Xcel Energy will be losing other good customers and friends as this process continues but we know that it is critical to the long term viability of our town.

Our company experienced firsthand the devastating impacts that the 1997 flood had on the Grand Forks community. Our customers and our shareholders bore financial burdens as we invested in repairs and restoration work -- FEMA assistance was not available to us as an investor-owned utility.

And, the impact continued in the following years. As the community struggled to retain residents, rebuild, and clear riverfront areas to mitigate further flood impacts, our company was impacted by the loss of customers. It has taken a significant amount of time and a huge amount of effort and energy for Grand Forks community to recover.

Since the flood, our natural gas growth on a per capita basis grew dramatically more in the Fargo area than in Grand Forks. I truly believe that much of the difference in this growth rate has occurred because the effects of a catastrophic flood, lasts years. I am pleased to say that all the hard work in Grand Forks and the comfort of having permanent flood protection in place is paying off because these last two years have seen growth rates to be proud of in Grand Forks.

In Minot during the 2011 flood, our Service Center had eight feet of water and sustained millions of dollars in damages. We had four thousand homes of our customers evacuated; our territory had over thousand homes damaged so dramatically that many of those homeowners had to spend time in FEMA trailers while repairing their property. More homes than people realize

still stand vacant. And once again, people's lives were inalterably changed.

Xcel Energy is here to strongly advocate that we take the actions necessary as a state to fund the flood protection needed for the Fargo area. Each year that the Fargo community has to divert its attention from focusing on creating job opportunities and maintaining our thriving economy to focus on flood fighting slows our momentum and reduces our potential.

Xcel Energy is in the community to serve our customers and we've become very good at planning and partnering with city leaders to fight the floods that have the potential to devastate us. But we'd be more than pleased to direct all our efforts to meeting the energy needs of a thriving community and the growing state of North Dakota.

Today I am here to ask that you support HB 1415. Fargo and surrounding communities need permanent flood protection to thrive and prosper.



About the Valley Prosperity Partnership

Spurred by the vision and a \$100,000 investment from Forum Communications Company Chairman William C. Marcil, along with private industry and higher education steering committee members each investing \$20,000, the Valley Prosperity Partnership (VPP) formed to identify strategic economic opportunities to bring the Red River Valley region of North Dakota and Minnesota together to focus on workforce, job creation, infrastructure, and economic needs of the region.

Purpose Statement

Through its strategic planning efforts, the Valley Prosperity Partnership will identify collaborative, actionable economic development initiatives that can be implemented within five (5) years. Identified initiatives will build on community strengths and resources to ensure economic prosperity throughout the Red River Valley of North Dakota and Minnesota, which will contribute to the health and prosperity of both states.

Priorities

1. Attract, develop and retain talent
2. Ensure water security and management
3. Expand research capacity and relevancy
4. Accelerate entrepreneurial activity and output
5. Invest in critical infrastructure development and capital improvement
6. Define and improve the internal and external perception of the Valley

Steering Committee

- | | | |
|--|--|---|
| ▪ William C. Marcil,
<i>Chairman</i>
Forum Communications Co. | ▪ John Eickhof, <i>President</i>
Construction Engineers | ▪ Wes Rydell, <i>Owner</i>
The Rydell Company |
| ▪ Tammy Miller, <i>CEO</i>
Border States Electric
<i>Committee Co-chair</i> | ▪ Jim Galloway, <i>Principal</i>
JLG Architects | ▪ Jeff Sandene, <i>COO</i>
Sanford Health |
| ▪ Steve Burian, <i>CEO</i>
AE2S
<i>Committee Co-chair</i> | ▪ Jim Gartin, <i>President</i>
Greater Fargo-Moorhead
EDC | ▪ Thomas Shorma,
<i>President & CEO</i>
WCCO Belting, Inc |
| ▪ Dave Anderson,
<i>Dir. of Public Affairs</i>
Sanford Health | ▪ Hal Gershman, <i>Owner</i>
Happy Harry's Bottle Shops | ▪ Richard Solberg,
<i>Chairman & CEO</i>
Bell State Bank & Trust |
| ▪ Barry Batcheller,
<i>Chairman & CEO</i>
Appareo Systems | ▪ Tim Huckle,
<i>President & CEO</i>
Blue Cross Blue Shield ND | ▪ Steve Swiontek,
<i>President & CEO</i>
Gate City Bank |
| ▪ Dave Berg,
<i>President & CEO</i>
American Crystal Sugar | ▪ Robert Kelley, <i>President</i>
University of North Dakota | ▪ Anne Temte, <i>President</i>
Northland Community &
Technical College |
| ▪ Karl Bollingberg,
<i>Exec. VP</i>
Alerus Financial | ▪ Dave Molmen, <i>CEO</i>
Altru Health System | ▪ Klaus Thiessen,
<i>President & CEO</i>
Grand Forks Region EDC |
| ▪ Dean Bresciani, <i>President</i>
North Dakota State
University | ▪ Mark Nisbet,
<i>N.D. Principal Mgr.</i>
Xcel Energy | |
| ▪ Doug Burgum, <i>Founder &</i>
<i>Chairman</i>
Arthur Ventures | ▪ Ronald Offutt,
<i>Chairman & CEO</i>
RDO Equipment | |
| | ▪ John Richman, <i>President</i>
N.D. State College of
Science | |
| | ▪ Jim Roers,
<i>President & CEO</i>
Roers Construction &
Development | |



The Valley Prosperity Partnership (VPP) is focused on developing a unified, shared vision for high value and sustained economic growth for all Red River Valley residents.

Private sector industry and higher education leaders, joined by economic development partners, formed the Valley Prosperity Partnership to identify common strategic economic development opportunities for the Red River Valley region of North Dakota and Minnesota.

The VPP has identified six priority areas for Valley-wide action.

1. Attract, develop and retain talent
2. Ensure water security and management
3. Expand research capacity and relevancy
4. Accelerate entrepreneurial activity and output
5. Invest in critical infrastructure development and capital improvement
6. Define and improve the internal and external perception of the Valley

Immediately following the May 2014 unveiling of the VPP's strategic plan – **An Action Agenda for Sustained Prosperity** – three working groups came together to start putting the strategy into action. Using the plan as a point of departure, working groups on talent, water and research began discussing the region's most promising prospects and best next steps.

2015 Legislative Agenda for North Dakota

The following recommendations by the VPP are specific efforts requiring legislative consideration and action that will help the Valley build on its current economic momentum and take advantage of opportunities that will foster sustained economic growth.

Talent Attraction, Retention & Development

The VPP will help to coordinate regional talent attraction, development and retention initiatives to ensure the Valley can meet and sustain the current and future employment demands while helping to give North Dakota, Minnesota, and the Valley a greater voice in national policy.

The VPP supports legislation that will:

- ✓ Provide more financial resources for k-12 career counseling, career awareness programs, & counselor professional development, including funding to add more counselors
- ✓ Expand Fargo's *Teachers in Industry* program to other communities throughout the state
- ✓ Foster growth of regional two-year training institutions in North Dakota and Minnesota, including the NDSCS campus in Fargo
- ✓ Increase funding for Operation Intern to \$5 million for the 2016-2017 biennium and expand eligibility to North Dakotans attending out-of-state universities and colleges
- ✓ Develop the next generation North Dakota Renaissance Zone program to incent investments that build smarter cities and downtowns

Expanding Research Capacity & Relevancy

The Valley Prosperity Partnership will work to ensure that the Valley's universities' research and technology commercialization activities are fully funded, can attract quality faculty, and can support regional industry and their unique competencies. Within this priority, a critical focus should be placed on the Valley's opportunities associated with the convergence of specialized areas of technology and innovation to include:

- *unmanned aerial systems (UAS)*
- *agriculture and food safety*
- *healthcare and medical services*
- *energy and natural resources*
- *material sciences*
- *advanced manufacturing*

The VPP supports legislation that will:

- ✓ Assure a long-term (10-year) commitment of increased state investment to build research infrastructure at NDSU and UND.
- ✓ Expand the universities' capacity to commercialize new technologies, processes or services that are invented at a university, including:
 - *Proof-of-Concept Fund* to do early-stage development
 - Support for incubators to provide entrepreneurial assistance, access to capital and state-of-the-art facilities
- ✓ Provide access to research experiences for undergraduate and graduate students that will create North Dakota's workforce of the future
- ✓ Reduce the differential between out-of-state tuition for post secondary students in disciplines related to key industry sectors
- ✓ Increase funding for Operation Intern to \$5 million for the biennium

Ensuring Water Security & Management

The Valley Prosperity Partnership will collaborate with internal and external stakeholders to ensure the Valley's water security infrastructure and management systems are fully funded, constructed and operational, effectively protecting against future flooding while providing for a readily sustainable water supply at all times.

The working group selected three water projects as holding the highest priority for Red River Valley economic competitiveness and community sustainability, including 1) the FM Area Diversion, 2) the Red River Water Supply project, and 3) basinwide retention. In addition, the VPP also supports water quality and general flood protection projects that will achieve beneficial outcomes for the region.

The VPP supports legislation that will:

- ✓ Provide state funding for continued implementation of the FM Area Diversion
- ✓ Provide state funding for a supplemental water option for the valley that is affordable in capital and operational costs. Moreover, the state's financial share of costs should be no less than 50% given limited availability of local resources to implement the project
- ✓ Continue state investment designed to support the Red River Retention Authority's long-term goal of reducing 100-year flows by 20%, including cost sharing by the State Water Commission

Testimony of Bernie Dardis, Indigo Signworks
Business Leaders Task Force for Permanent Flood Protection
HB 1415
January 30, 2015

Chairman Porter and members of the House Energy and Natural Resources committee, my name is Bernie Dardis and I am here today as the past chair of the Fargo Moorhead West Fargo Chamber Board and a member of the Chamber's Business Leaders Taskforce in support of permanent flood protection and the FM Area Diversion project. The taskforce is a collaborative effort of the Fargo Moorhead West Fargo Chamber of Commerce, the Greater Fargo Moorhead Economic Development Corporation and local businesses. I am also the CEO of Indigo Signworks, a company that has been operating in the Fargo metro for many years and also has locations in Bismarck, Minot, and Grand Forks.

We need permanent flood protection. Internal levees throughout Fargo play an integral part of the diversion project. Studies show we cannot achieve 100 year flood protection with levees alone, but with a combination of flood protection measures we can keep our city safe. Over five years of study and hard, collaborative work have gone into this plan. Time and time again Fargo and Cass County residents have shown their support by passing 3 different sale's taxes to provide local Cass and City funding for permanent flood protection. We are asking for the state of North Dakota to commit support as well by

appropriating funds to be used directly for the costs associated with the interior flood protection projects. It is critical that the State of North Dakota is strongly supportive of this effort.

Fargo has been an economic engine for the state and we want it to continue to grow and thrive.

The FM MSA is home to over 120,000 jobs that generate \$4.35 billion in annual wages. The FM MSA generates more than \$2.75 billion in taxable sales. \$200 million of annual ND income and sale's tax is generated in this region.

Permanent Flood Protection in the F-M Metro area is key to continued economic growth, security and the future of our communities.

In my business career I have experienced flooding in Grand Forks, Bismarck, Fargo, and Minot. We have witnessed first-hand the affect it has on our business as well as the economic effect on our customers. We have allowed our employees time away from their jobs to work to save their homes or the homes of friends, families, and yes even strangers who need a hand.

The flood in Minot and Grand Forks were beyond belief – not only for the loss experienced in housing, wages, and possessions, but the emotional toll. I stood in mid-calf mud in employee's homes with them devastated by the tragedy – asking me what I am going to do, where are we going to live? We have lost everything.

Ladies and Gentleman of the House Energy and Natural Resources committee please support H.B. 1415 for permanent flood protection so no North Dakota family has to endure this again.

Thank you for your attention to this serious issue and the opportunity for me to speak with you today.

I'd be happy to take any questions you may have.

Thank You.

Testimony of Doug Restemayer, D-S Beverages
Business Leaders Taskforce for Permanent Flood Protection
HB 1415
January 30, 2015

Chairman Porter and members of the House Energy and Natural Resources committee, my name is Doug Restemayer. I am the current Chair of the Fargo Moorhead West Fargo Chamber Board of Directors and also a member of the Chamber's Business Leaders Taskforce in support of permanent flood protection and the FM Area Diversion project. My other job is President and owner of D-S Beverages – we distribute fine beer products like Anheuser-Busch within a 100 mile radius of Fargo. My business was started in 1968 by my father-in-law. Our physical warehouse is located in Moorhead, but half our business is done in North Dakota and half in Minnesota. I employ 58 full time people and 20 part-time with a total payroll exceeding \$3 Million. I am a proud, long-time resident of Fargo.

Our community NEEDS permanent flood protection. It is NOT optional. We need certainty. For our community to continue to attract new businesses we must be able to show them they are not at risk of disastrous flooding. To attract new residents and employees we need to be able to sell them a house that won't have a \$6,000 annual flood insurance premium. For my business and many others, new residents mean more customers. In addition, if we don't get current homes out of the FEMA flood plain -as Pat pointed out - they will be faced with huge flood insurance payments and that will leave less money for discretionary items like a cold Budweiser.

Obviously a flood of the FM area would be devastating to business. And contrary to what some may believe, the fighting of a flood does NOT help sell beer. Yes in 2009 we were declared a "necessary" business and were

allowed to continue to deliver our product – can you imagine how demoralizing it would be to run out of beer? But with bars and restaurants shut down as our city battled the flood our sales, and those of our customers, dropped considerably.

Our shining star, economic powerhouse city deserves to be protected. Please support HB 1415.

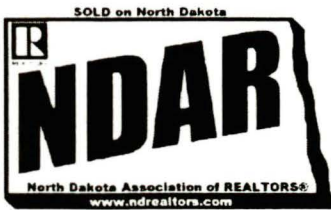
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1415
1/30/15

Sanford's Experiences in Relocation of Patients due to Catastrophic Circumstances— Flood 2009

1.29.15

- On the evening of March 26, 2009, due to rising floodwaters, the imminent danger of loss of water, sewer and other necessary services, and to protect the health and safety of patients and employees, Sanford Medical Center (then MeritCare) made the difficult decision to evacuate for the first time in its 100-year history. Within six hours, 183 patients were safely relocated to over 30 facilities in 3 states by 34 ground ambulances and numerous air ambulances. A large group of 28 patients was transported by bus to Abbott Northwestern in Minneapolis. By 2:50 a.m. on March 27, all patients at the downtown and South University campuses were gone, and nursing units were dark. The hospital was completely shut down for 7 days with only minimal ER and emergency services available.
 - This business interruption cost of the closing was \$4 million. Sanford looked to insurance and major business partners to help with recovery. To assure adequate cash flow during the months post-flood, advances in payments were requested and received from health insurers and Medicare as well as extensions in payment from vendors. All were very willing to work with us.
 - For many employees and physicians, the impact of not working was emotionally and financially stressful, even as many were fighting to keep their homes. Although it was closed, Sanford took care of its employees and ran payroll during the shutdown. FEMA funding covered a portion of the overtime during evacuation.
 - For surrounding communities that had always relied on Sanford for medical care for over 100 years, there was a need to go elsewhere, often long distances. Many OB patients delivered their babies in cities from Minneapolis to Detroit Lakes to Bemidji, often not close to family and friends.
 - For evacuated patients and their families, there was the anxiety and stress of separation and the emotional toll of being far from home, often in an unfamiliar city and hospital. There was a great sense of loss in the community from those who were fighting the flood to see this major institution shut down.
- 1



North Dakota Association of REALTORS®

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Phone: 701-355-1010 or 800-279-2361 – Fax: 866-665-1011
www.ndrealtors.com info@ndrealtors.com

1415
1/30/15

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Nancy Willis, *Gov't Affairs Director*

nancy@ndrealtors.com



TESTIMONY ON HB 1415

Chairman Porter and members of the House Energy and Natural Resources Committee, my name is Nancy R. Willis and I am the Government Affairs Director for the North Dakota Association of REALTORS®.

NDAR represents more than 1600 REALTOR® and 250 affiliate members statewide and we ask for a Do Pass on HB 1415.

Our members have taken a position in favor of the Fargo-Moorhead Area Diversion Project and we support efforts such as those contained in House Bill 1415 that fund flood protection for the city of Fargo.

Recently, the Federal Emergency Management Agency (FEMA) published new flood maps in Fargo which expand the area considered to be at risk for flooding and impacts about 2,300 structures. I attached a document that shows the areas listed on the Fargo Letter of Map Change page, where residents can go to see how they are affected.

For many residents, the expanded flood plain resulting from the new maps means that they now are required to carry flood insurance. For others that already carry flood insurance, it means an increase in premiums. For the homeowners affected, should they need to put their house on the market, they now face concerns about prospective buyers wanting to purchase in those areas and if so, will they want to pay the same price they would have prior to the new mapping.

REALTORS® not only are concerned about the burden this puts on home and property owners, but also about how this will affect their businesses going forward.

Completion of the Diversion Project still is needed, but is quite some time out. The funding of levees contained in this bill, would mean that property owners would have an option for flood protection sooner and would be able to show mitigation which could help reduce the flood insurance and home value impacts.

We believe the protection afforded by the levees proposed in this project are very important for the safety and well-being of property owners in Fargo and we urge a Do Pass on HB 1415.

I am happy to respond to any questions you may have.

Letter of Map Change (LOMC)

The Federal Emergency Management Agency (FEMA) has exclusive authority to place or remove property from the floodplain.

Now that the 2015 Flood Insurance Rate Map (FIRM) is effective, FEMA will only consider map changes based on a formalized administrative process known as Letter of Map Change (LOMC). Letter of Map Amendment (LOMA) and Letter of Map Revision based on fill (LOMR-F) are the most common LOMC's. Typically a single lot or structure is removed from the Special Flood Hazard Area (SFHA) by a LOMA and multiple lots or even entire developments will be removed under the LOMR-F.

Below are the FEMA letters by development:

Find subdivision, block and lot numbers on the [Interactive GIS Map](#). Need help? Read instructions on [how to use the map](#).

LOMA:

AMPC 2nd - <u>1</u> , <u>2</u>	North Central Sub. - <u>1</u>	Vista Village 2nd - <u>1</u>
Autumn Fields - <u>1</u>	North Oaks - <u>1</u> , <u>2</u> , <u>3</u>	Vista Village 4th - <u>1</u>
Cameron-Sondreal - <u>1</u> , <u>2</u>	Prairie Grove 1st - <u>1</u>	Woodcrest 3rd - <u>1</u> , <u>2</u>
Coulee's Crossing - <u>1</u>	Reed Township - <u>1</u>	Woodhaven 1st - <u>1</u>
Country Grove - <u>1</u>	Ridgewood - <u>1</u>	Woodhaven 3rd - <u>1</u>
Evelyn Acres - <u>1</u>	RLN Business Park 1st - <u>1</u>	Woodhaven 4th - <u>1</u>
Harwood Groves 2nd - <u>1</u>	Rose Creek 5th - <u>1</u>	Woodhaven 5th - <u>1</u>
Legacy I 4th Addition - <u>1</u>	Sincebaugh - <u>1</u>	Woodhaven 6th - <u>1</u>
Legacy I 5th Addition - <u>1</u>	South Park - <u>1</u>	Woodhaven 7th - <u>1</u>
Maple Valley - <u>1</u>	Veterans Park 1st - <u>1</u>	Woytassek - <u>1</u>
Martens Way - <u>1</u>	Vista Village - <u>1</u>	

LOMR:

Cottagewood - <u>1</u>	Golden Valley - <u>1</u>	Riverwood 4th - <u>1</u> , <u>2</u> , <u>3</u>
Crofton Coves 1st - <u>1</u> , <u>2</u>	Legacy I 4th Addition - <u>1</u>	RLN Bus. Prk 1st - <u>1</u> , <u>2</u> , <u>3</u> , <u>4</u>
Davies 2nd - <u>1</u>	Maple Valley - <u>1</u>	Pines at The District - <u>1</u> , <u>2</u>
Eagle Pointe 1st - <u>1</u> , <u>2</u> , <u>3</u>	Prairie Grove 1st - <u>1</u> , <u>2</u>	Valley View - <u>1</u> , <u>2</u>
Eagle Pointe 2nd - <u>1</u> , <u>2</u>	Prairie Moon Estates - <u>1</u>	

#8

1415
1/30/15

TESTIMONY ON HOUSE BILL NO. 1415

House Energy and Natural Resources Committee

**Bruce Engelhardt, Director of Water Development
North Dakota State Water Commission**

January 30, 2015

Mr. Chairman and members of the Energy and Natural Resources Committee, my name is Bruce Engelhardt. I am the Director of Water Development for the State Water Commission. I am here today to provide information regarding House Bill 1415.

In the 2011-2013 and 2013-2015 bienniums, a total of \$175 million was appropriated specifically for Fargo flood control. The intent of the 63rd legislative assembly was to provide one-half the local cost share of the project not to exceed \$450 million with the further intent that the remaining \$275 million be made available in equal installments over the next four bienniums. The executive budget includes \$69 million for Fargo flood control, which reflects that intent.

An addition of \$60 million over each of the next two bienniums may speed up the project, but may also impact funding of other projects proposed in the State Water Commission's budget and reduce the Commission's flexibility to fund projects when they are ready to be constructed. HB 1415 is also unclear as to what, if any, local cost share would be required. To clarify this I suggest the phrase "at cost share percentages based on State Water Commission policy" be inserted after the word "funding" in line 8.

The State Water Commission has approved cost share with the \$175 million appropriated, subject to the restriction of the previous legislation. Among these restrictions are: the requirement that funds be used only for levee and dike protection until the federal project is authorized and the partnership agreement has been executed; that no more than ten percent of the funds be used for engineering, legal, planning or other similar purposes; and that the funds may be used only for land purchases and construction, including right-of-way acquisition costs, and may not be used for the purchase of dwellings. The restrictions in HB 1415 differ from those by allowing the purchase of dwellings and not limiting engineering.

Thank you for the opportunity to comment. I will be happy to answer any questions.

54-44.1-11. (Effective through July 31, 2015) Office of management and budget to cancel unexpended appropriations - When they may continue.

Except as otherwise provided by law, the office of management and budget, thirty days after the close of each biennial period, shall cancel all unexpended appropriations or balances of appropriations after the expiration of the biennial period during which they became available under the law. Unexpended appropriations for the state historical society are not subject to this section and the state historical society shall report on the amounts and uses of funds carried over from one biennium to the appropriations committees of the next subsequent legislative assembly. Unexpended appropriations for the North Dakota university system are not subject to this section and the North Dakota university system shall report on the amounts and uses of funds carried over from one biennium to the next to subsequent appropriations committees of the legislative assembly. The chairmen of the appropriations committees of the senate and house of representatives of the legislative assembly with the office of the budget may continue appropriations or balances in force for not more than two years after the expiration of the biennial period during which they became available upon recommendation of the director of the budget for:

1. New construction projects.
2. Major repair or improvement projects.
3. Purchases of new equipment costing more than ten thousand dollars per unit if it was ordered during the first twelve months of the biennium in which the funds were appropriated.
4. The purchase of land by the state on a "contract for deed" purchase if the total purchase price is within the authorized appropriation.
5. Purchases by the department of transportation of roadway maintenance equipment costing more than ten thousand dollars per unit if the equipment was ordered during the first twenty-one months of the biennium in which the funds were appropriated.
6. Authorized ongoing information technology projects.

(Effective after July 31, 2015) Office of management and budget to cancel unexpended appropriations - When they may continue. The office of management and budget, thirty days after the close of each biennial period, shall cancel all unexpended appropriations or balances of appropriations after the expiration of the biennial period during which they became available under the law. Unexpended appropriations for the state historical society are not subject to this section and the state historical society shall report on the amounts and uses of funds carried over from one biennium to the appropriations committees of the next subsequent legislative assembly. The chairmen of the appropriations committees of the senate and house of representatives of the legislative assembly with the office of the budget may continue appropriations or balances in force for not more than two years after the expiration of the biennial period during which they became available upon recommendation of the director of the budget for:

1. New construction projects.
2. Major repair or improvement projects.
3. Purchases of new equipment costing more than ten thousand dollars per unit if it was ordered during the first twelve months of the biennium in which the funds were appropriated.
4. The purchase of land by the state on a "contract for deed" purchase if the total purchase price is within the authorized appropriation.
5. Purchases by the department of transportation of roadway maintenance equipment costing more than ten thousand dollars per unit if the equipment was ordered during the first twenty-one months of the biennium in which the funds were appropriated.
6. Authorized ongoing information technology projects.

54-44.1-12. Control over rate of expenditures.

The director of the budget shall exercise continual control over the execution of the budget affecting the departments and agencies of state government, with the exception of the legislative and judicial branches. Execution means the analysis and approval of all commitments for conformity with the program provided in the budget, frequent comparison of actual revenues



2/5/15
1415

OFFICE OF THE CITY ADMINISTRATOR
Pat Zavoral

February 2, 2015

Representative Todd Porter
State Capitol
600 East Boulevard
Bismarck, ND 58505-0360

Dear Representative Porter:

Thank you for holding the hearing on HB 1415 authored by Representative Al Carlson with you and others as sponsors. The testimony given by Mr. Bruce Engelhardt of the State Water Commission staff left us, and I'm sure your committee members, a bit confused. Let me explain our position on the current funding allocated by the State and administered by the State Water Commission.

Prior to the flood of 2009 Fargo staff was working on a project called the Southside Flood Protection Plan which would have prevented water from flowing overland from the Wild Rice River located about 4 miles south of Fargo city limits. Through the efforts of former Mayor Bruce Furness the City of Fargo received about \$75 million over 3 bienniums from the State to match the \$125 million project estimate for this flood protection plan.

When 2009 came along and the record flood occurred, Fargo, Moorhead, Cass and Clay County leaders got together with the Governors of the two states and Congressional delegations to urge the Army Corps of Engineers to come up with a permanent solution for flooding. The ultimate plan was the F-M Diversion Project which was developed jointly by the Corps and local entities through the F-M Diversion Authority. The estimated cost of this project was and still is estimated to be \$1.8 billion. The Federal government was obligated to pay \$800 million and the locals a billion dollars of the costs.

The 2013 legislative session, after much debate and rancor between proponents and opponents of the Diversion, allocated \$100 million and rolled the previous funding into the State Water Commission budget, with a promise of an additional \$275 million over 4 bienniums, or about \$69 million a biennium. This is the amount in the Governor's budget for 2015/2017.

The language for the 2013/2015 bill supporting the \$100 million allocation was for Fargo flood protection, but it was quite specific and restrictive as to what the funds could be directed towards within the Diversion plan. No state funds could be used on diversion work until the Federal government authorized the project and allocated funds toward it. Additionally, no state funds could be used on the diversion until a Project Partnership Agreement (PPA) was signed by the locals and the Corps of Engineers. This document is currently being drafted and negotiated. State funds could be used for protecting Oxbow, Bakke and Hickson via ring levees, and in-town levees for Fargo. To date, about \$52 million has been paid out by the state on eligible diversion activities.

So, Mr. Engelhardt is correct that diversion funds already allocated (the \$175 million) can be used in Fargo for levee work; however, this work must be part of the Diversion plan through the city and not other work that needs to be undertaken to ensure Fargo properties are protected by certified levees that take property out of the mandatory flood insurance areas without a diversion. This is why there is the \$60 million request in Representative Carlson's bill.

Moreover, the 2013/2015 legislation was clear that the State's contribution for this diversion was to be one-half of the local matching requirements. The local North Dakota matching requirement for the \$1.8 billion project is \$900,000---which means the locals must come up with \$450 million and the State of North Dakota according to their funding policy will contribute 50% or \$450 million to the diversion.

The \$60 million requested this session and next session is for non diversion flood protection projects totaling \$240 million which will protect Fargo with FEMA certified levees which allowing property owners the ability to voluntarily purchase flood Insurance at the lowest possible rate and eliminate mandatory purchase requirements. As Representative ~~Klein~~ ^{Reisse} of Bismarck indicated during the testimony, mandatory flood insurance is going to rise to a non subsidized rate and will make homeownership in those areas of Fargo without certified protection very expensive.

Thank you for your time and effort on this bill. If you have further questions we will be very willing to address them.

Sincerely,



Pat Zavoral
City Administrator

cc: Mayor Timothy J. Mahoney
Representative Al Carlson

2015-2017 SWC WATER

DEVELOPMENT PRIORITIES TABLE

Water Commission Funding Priorities, 2015-2017 Biennium

Priority Categories	SWC Total 2015-2017 (Millions)	SWC Grant Estimate 2015-2017 (Millions)	SWC Loan Estimate 2015-2017 (Millions)
Devils Lake Outlet Operations	\$11	\$11	\$0
F-M Diversion	\$69	\$69	\$0
Grafton Flood Control	\$25	\$25	TBD
Mouse River Flood Control	\$110	\$110	TBD
Williston Flood Control	\$7	\$7	TBD
Sheyenne River Flood Control	\$55	\$44	\$11
General Water Management	\$50	\$50	TBD M
Irrigation	\$9	\$9	\$0
Water Supply Program	\$206	\$96	\$110
NAWS	\$18	\$18	\$0
Red River Valley Water Supply	\$150	\$150	TBD
SWPP	\$100	\$100	Cap. Repayment
WAWS	\$120	\$82	\$38
TOTAL	\$930	\$771	\$159

TBD – to be determined

SWC - RTF

**2013-15 APPROPRIATIONS FROM THE RESOURCES TRUST FUND
TO THE STATE WATER COMMISSION AND FUNDS
OBLIGATED AS OF NOVEMBER 2014**

This memorandum provides information regarding 2013-15 biennium appropriations from the resources trust fund to the State Water Commission and funds obligated as of November 2014.

The 2013 Legislative Assembly appropriated \$750,596,626 from the resources trust fund to the State Water Commission for the 2013-15 biennium. Of this amount, \$719,246,626 was appropriated in 2013 House Bill No. 1020 for grants, projects, and project administration (\$700,875,000) and for administrative and support services (\$18,371,626). The remaining \$31,350,000 was appropriated in 2013 House Bill No. 1269 to the State Water Commission for providing grants to the Stutsman County Rural Water, North Central Rural Water Consortium, and McLean-Sheridan Rural Water projects (\$10,350,000) and for providing a zero interest loan to the Southwest Pipeline Project (\$21,000,000).

Through November 2014, the State Water Commission has approved \$627,486,260 for projects, of which \$134,206,636 has been expended or obligated, leaving \$493,279,624 approved but not spent. A list of projects approved by the State Water Commission and related obligations and expenditures through November 2014 is attached as an appendix.

ATTACH:1

**STATE WATER COMMISSION
PROJECTS/GRANTS/CONTRACT FUND
2013-2015 BIENNIUM**

Nov-14

	BUDGET	SWC/SE APPROVED	OBLIGATIONS EXPENDITURES	REMAINING UNOBLIGATED	REMAINING UNPAID
FLOOD CONTROL					
FARGO	136,740,340	136,740,340	12,514,708	0	124,225,632
GRAFTON	8,925,000	8,925,000	0	0	8,925,000
MOUSE RIVER FLOOD CONTROL	36,618,860	5,991,186	113,446	30,627,674	5,877,740
BURLEIGH COUNTY	1,469,900	1,469,900	859,112	0	610,788
VALLEY CITY	14,525,526	14,525,526	0	0	14,525,526
LISBON	3,325,650	3,325,650	907,638	0	2,418,012
FORT RANSOM	225,000	225,000	0	0	225,000
RICE LAKE RECREATION DISTRICT	2,842,200	2,842,200	0	0	2,842,200
RENWICK DAM	1,281,376	1,281,376	483,759	0	797,617
SHEYENNE RIVER FLOOD CONTROL	5,341,804			5,341,804	
FLOODWAY PROPERTY ACQUISITIONS					
MINOT	33,684,329	33,684,329	5,250,816	0	28,433,513
WARD COUNTY	9,698,169	9,698,169	2,157,559	0	7,540,610
VALLEY CITY	1,822,598	1,822,598	1,089,502	0	733,096
BURLEIGH COUNTY	442,304	442,304	209,655	0	232,649
SAWYER	184,260	184,260	0	0	184,260
LISBON	888,750	888,750	887,682	0	1,068
STATE WATER SUPPLY					
REGIONAL & LOCAL WATER SYSTEMS	102,993,555	102,993,555	28,341,221	0	74,652,335
FARGO WATER TREATMENT PLANT	27,864,069	27,864,069	1,981,866	0	25,882,203
SOUTHWEST PIPELINE PROJECT	102,278,859	102,278,859	35,835,774	0	66,443,085
NORTHWEST AREA WATER SUPPLY	21,241,433	7,241,433	1,035,658	14,000,000	6,205,775
COMMUNITY WATER LOAN FUND - BND	15,000,000	15,000,000	5,000,000	0	10,000,000
WESTERN AREA WATER SUPPLY AUTHORITY	79,000,000	79,000,000	21,231,853	0	57,768,147
RED RIVER VALLEY WATER SUPPLY	11,000,000	3,295,000	995,287	7,705,000	2,299,713
IRRIGATION DEVELOPMENT	5,493,548	949,869	447,261	4,543,679	502,608
GENERAL WATER MANAGEMENT					
OBLIGATED	32,066,567	32,066,567	8,573,732	0	23,492,835
UNOBLIGATED	16,189,674			16,189,674	0
DEVILS LAKE					
BASIN DEVELOPMENT	68,085	68,085	7,107	0	60,978
OUTLET	872,403	872,403	1,601	0	870,802
OUTLET OPERATIONS	15,140,805	15,140,805	5,513,811	0	9,626,994
DL TOLNA COULEE DIVIDE	102,975	102,975	0	0	102,975
DL EAST END OUTLET	2,774,011	2,774,011	0	0	2,774,011
DL GRAVITY OUTFLOW CHANNEL	13,686,839	13,686,839	0	0	13,686,839
DL STANDPIPE REPAIR	1,300,000	1,300,000	342,595	0	957,405
WEATHER MODIFICATIONS	805,202	805,202	424,994	0	380,208
TOTALS	705,894,092	627,486,260	134,206,636	78,407,832	493,279,624

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Title.

Prepared by the Legislative Council staff for
Representative Carlson
February 5, 2015

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1415

Page 1, line 9, after the period insert "The funding provided in this section is in addition to funding allocated for Fargo flood control from funds appropriated in 2015 Senate Bill No. 2020 and is in addition to the \$450 million to be provided by the state for Fargo flood control as provided in Section 10 of 2013 House Bill No. 1020."

Page 1, line 17, replace "a total of" with "the state provide"

Page 1, line 17, remove "be provided by the"

Page 1, line 18, replace "state for flood protection projects within the city limits of Fargo" with "and the city of Fargo provide \$120,000,000 of the total estimated cost of \$240,000,000 for interior flood protection projects within the city limits of Fargo"

Renumber accordingly

1

2/6/2015
1415

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1415

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide legislative intent.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. LEGISLATIVE INTENT - FARGO FLOOD CONTROL PROJECT FUNDING. It is the intent of the sixty-fourth legislative assembly that the state provide one-half of the local cost-share of Fargo flood control projects, including constructing a federally authorized Fargo flood control project and that total Fargo flood control project funding to be provided by the state not exceed \$570,000,000. It is further the intent of the sixty-fourth legislative assembly that the state water commission reallocate water project funding within its 2015-17 biennium appropriation as necessary to provide funding for eligible Fargo flood control project commitments."

Renumber accordingly

Sixty-fourth
Legislative Assembly
of North Dakota

BILL NO. 1415

Introduced by

Representative Carlson

Attachment 1
3-27-15
Rep Carlson

1 A BILL for an Act to provide an appropriation to the state water commission; to provide
2 legislative intent; to provide an exemption; and to declare an emergency.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1. APPROPRIATION - STATE WATER COMMISSION - FARGO INTERIOR**

5 **FLOOD PROTECTION - EXEMPTION.** There is appropriated out of any moneys in the

6 resources trust fund in the state treasury, not otherwise appropriated, the sum of \$60,000,000,

7 or so much of the sum as may be necessary, to the state water commission for the purpose of

8 providing funding for flood protection projects within city limits of Fargo for the period beginning

9 with the effective date of this Act and ending June 30, 2017. The city of Fargo must apply for

10 flood protection project funding, but the state water commission may not deny an application

11 unless the funds are not intended to be used in accordance with provisions of this section. The

12 city of Fargo may use the funds for costs directly associated with completion of interior flood

13 protection projects within its city limits including engineering and legal fees, right of way

14 acquisition costs, land purchases, home buyouts, and construction costs. Funds may not be

15 used for general operations or administrative costs.

16 **SECTION 2. LEGISLATIVE INTENT - FARGO INTERIOR FLOOD PROTECTION.** It is the

17 intent of the sixty-fourth legislative assembly that a total of \$120,000,000 be provided by the

18 state for flood protection projects within the city limits of Fargo during the 2015-17 and

19 2017-2019 bienniums.

20 **SECTION 3. EXEMPTION.** The funds appropriated in section 1 of this Act are not subject to

21 section 54-44.1-11, and any unexpended funds must be continued into the 2017-19 or

22 subsequent bienniums and may be spent only for flood protection projects within city limits of

23 Fargo.

24 **SECTION 4. EMERGENCY.** This Act is declared to be an emergency measure.

March 27, 2015

Testimony of:

April E. Walker P.E., C.F.M.

City of Fargo, City Engineer

Honorable legislators, I would like to thank you for the opportunity to testify in support of HB 1415. I have a presentation that I would like to submit to you for the record that chronicles the progress that Fargo has made in the area of flood risk reduction since 2009, as well as outlining the work left to be done.

As you are well aware the City has faced many flood fights that have been perilous in nature. Following the record flood of 2009 City leadership authorized staff to commit resources to the development of a plan to provide improved lines of protection. The result of that effort was the Citywide Comprehensive Plan for flood mitigation. To date we have implemented about 45% of this plan that is designed to provide certifiable protection against the FEMA 100 year floodplain of 39.4 feet.

Over 16 miles of protection has been constructed with 15 miles of levee, and 1 mile of floodwall. This has been at an expense of approximately \$82M in construction costs alone. To further these efforts 173 structures have been acquired at a cost of about \$57M and over 80 easements have been secured across private property.

At present there are an additional 3.5 miles of protection being constructed with an estimated project cost of \$100M. When this work wraps up the comp plan will be approaching 55% completion. However, this still leaves over 13 miles to construct with an estimated cost of \$240M and an additional 121 homes left to be acquired.

If you are familiar with Fargo's flood history then you know that defining the risk has been challenging. As we experience periods of successive major floods, each peak has a significant impact on the calculation of what one can expect to occur with a 1% chance, in any given future year. In other words each major peak increases the 100 year floodplain.

Following the 2009 Flood the USACE became engaged in the development of a flood risk reduction project for Fargo. This effort has developed into the FM Diversion Project. Through the USACE study, which included a new calculation of the 100 year floodplain that accounted for recent back to back floods, they determined the 100 year floodplain should be 41 feet.

Achieving certifiable protection for the 41 foot level requires 3 feet of freeboard, exclusive of the depth of topsoil and any overbuild necessary to account for anticipated settlement over the life of the levee (typically 6"-8"). In addition building levees that parallel a river and contain the flow causes the profile to raise leading to the need for even taller levees. This in turn requires a

larger footprint and creates more impact to private property and existing public infrastructure which in turn impacts the cost. Therefore achieving a 41' certifiable line of protection by building levees through town is not a practical alternative. This is why the City along with our partners in the Diversion Authority, are pursuing the FM Diversion. However, while that project is being developed, our City, this urban center of existing property, is at risk.

The continued implementation of the comprehensive plan provides immediate benefits by reducing emergency measures, and providing real protection for property. As the comprehensive plan progresses we intend to seek accreditation from FEMA and pull property out of the floodplain lowering insurance rates. Long term, with a diversion in place these lines of protection provide for a capacity to protect from events that will exceed a 100 year level. This is crucial to the vitality and sustainability of a population center of over 100,000 people.

The bill in front of you will provide critical resources to advance this plan. The City of Fargo urges you to vote in favor of this bill.

Thank you.

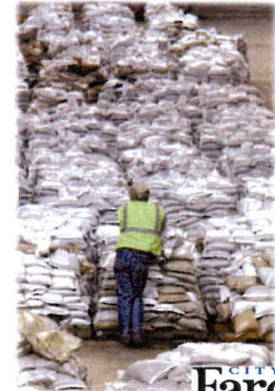
City of Fargo Flood Mitigation Strategy and Project Update

» March 2015

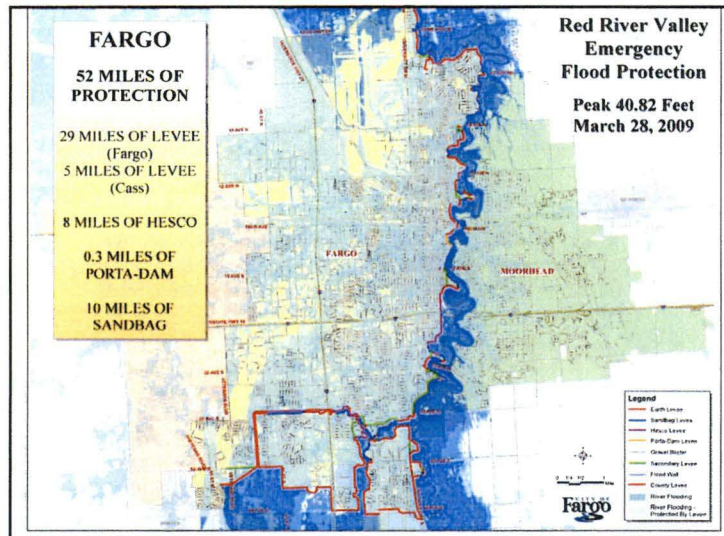
CITY OF
Fargo

Floodplain Now & Future

- ▶ Now Effective Floodplain
 - 39.4 Feet River Gage (29,300 cfs)
 - Approx. 2,300 Impacted Structures
 - 7,200 Impacted properties
 - 27,600 Acres Impacted
 - After Diversion - This elevation will be close to 500-year flood levels
- ▶ Flood of Record 2009
 - 40.8 Feet River Gage
- ▶ Future of the Floodplain
 - USACE 41 Feet River Gage (34,700 cfs)
 - Approx. 19,400 Impacted Structures
 - 36,430 Acres Impacted

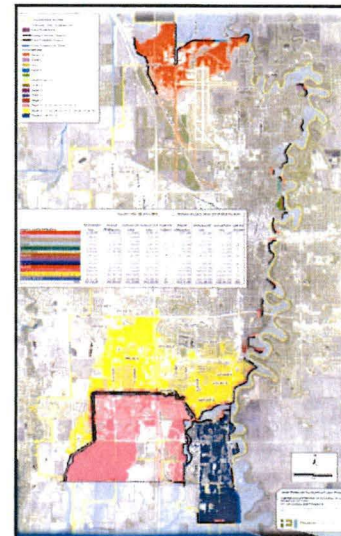


CITY OF
Fargo



Comprehensive Plan

- ▶ Developed Following the Flood of Record with Final Draft in 2012
- ▶ Goal-Certifiable Protection From the FEMA Floodplain (39.4 Feet)
- ▶ Estimated \$247 M in Projects (2012 \$)
- ▶ Yellow area has largest concentration of impacted structures (1,500)



CITY OF
Fargo

Why implement this Comprehensive Plan?

Short Term:

- Reduce emergency measures—immediate benefit from each project
- Provide real protection for existing homes that were built prior to the knowledge of the increased risk

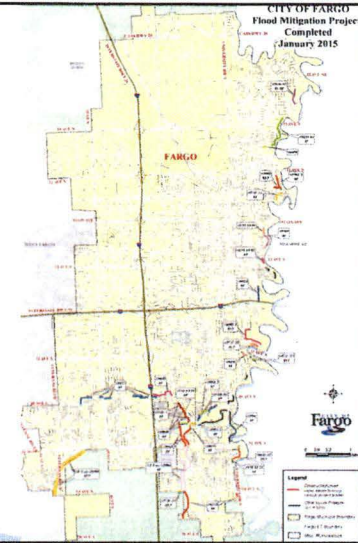
Long Term:

- Upon completion of Certifiable reaches—Keep Housing Affordable for more of our population by making flood insurance available to residents at the lowest possible rate and eliminating mandatory purchase requirements where appropriate
- Combined with the FM Diversion— Provide for greater than 100 year protection for the largest population center in ND



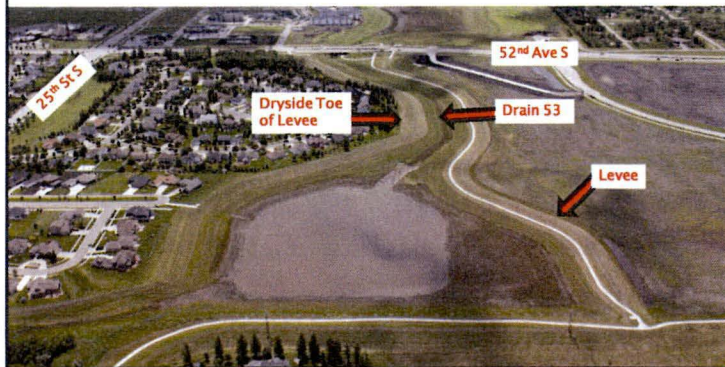
Completed Projects (Since 2009)

- ▶ Over 16 miles constructed
 - 15 miles of earth levee
 - 1 mile of floodwall
- ▶ Project Cost ≈ \$82 million
- ▶ Reduces sandbags by approximately 4 million
- ▶ Required over 80 Private Property Easements
- ▶ 45% of the Comprehensive Plan Completed



Meadow Creek

- ▶ Completed 2011
 - Earth Levee
- ▶ Reduces sandbags by approximately 250k

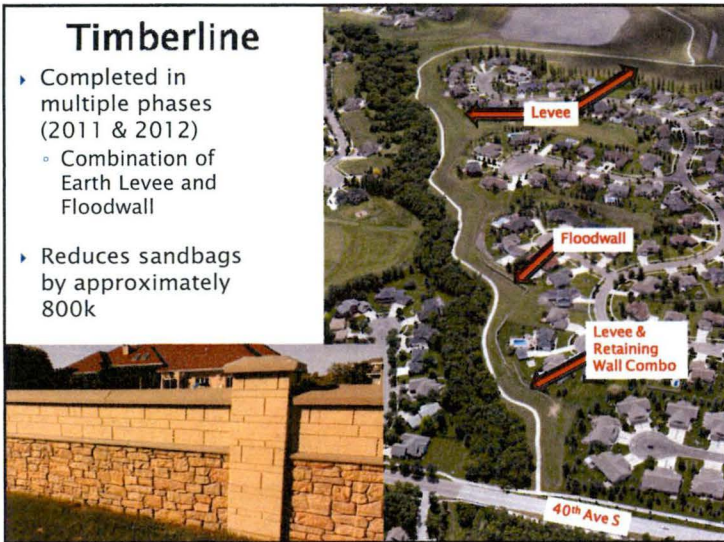


Meadow Creek 2009



Timberline

- ▶ Completed in multiple phases (2011 & 2012)
 - Combination of Earth Levee and Floodwall
- ▶ Reduces sandbags by approximately 800k

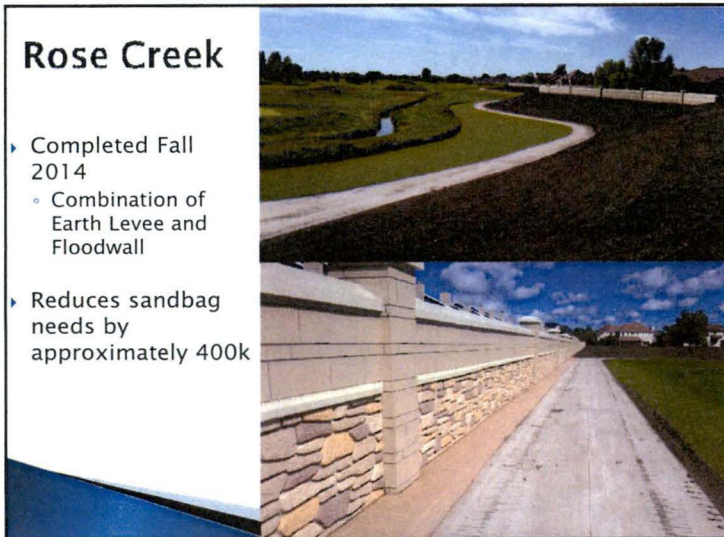


Timberline 2009



Rose Creek

- ▶ Completed Fall 2014
 - Combination of Earth Levee and Floodwall
- ▶ Reduces sandbag needs by approximately 400k



Rose Creek 2009

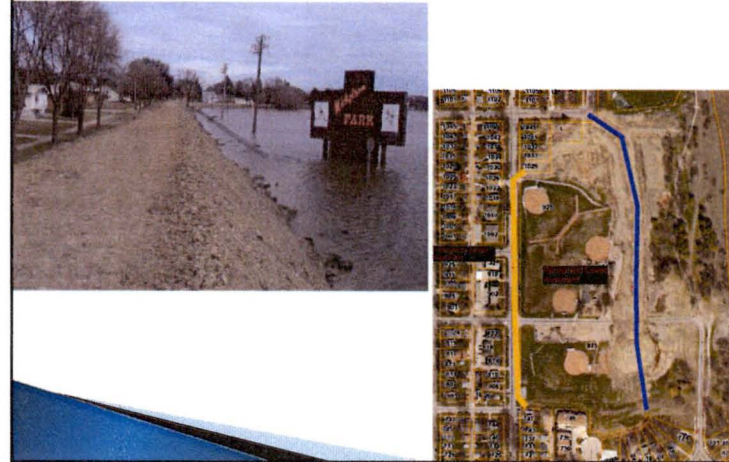


Mickelson Field

- Substantially Completed this Fall
- Eliminates the need for the Emergency Levee on Oak Street

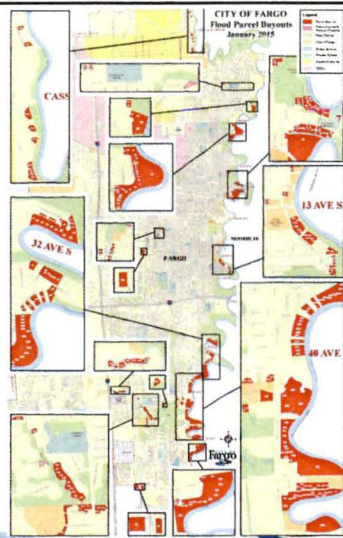


Mickelson Field 2009



Property Acquisitions (Since 2009)

- 173 Properties Purchased
 - Over 300 since 1990
- At cost of over \$57 million
- Cass County purchased 14 additional homes needed
- Diversion Authority is in process of acquiring 15 additional properties within Fargo
- Remaining Properties Under Comprehensive Plan
 - 121 properties to be acquired
 - Approximately \$36 million



Projects In Progress

- Combination of Projects under Design or Construction
 - 6 Diversion Authority Led
 - 6 City of Fargo Led
- Over 3.5 miles in progress
- Project Cost ≈ \$100 million
 - Construction Cost ≈ \$67 million
- 55% of the Comprehensive Plan completed once these projects are done



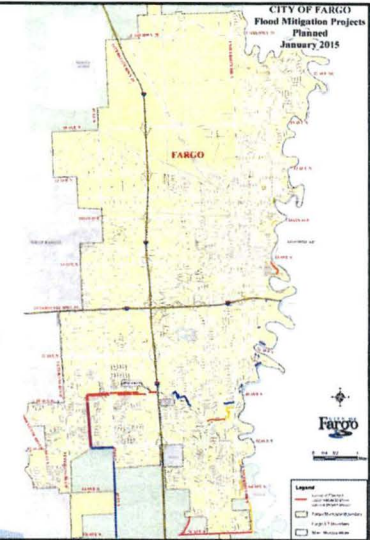
Harwood, Hackberry, River Drive Area

- ▶ Phase 1 – February 2015 Bid Opening
 - Levee Construction on Previously Acquired Properties
 - Construction of new storm sewer lift station
 - New lift station will replace two existing lift stations
 - Fall 2015 Completion



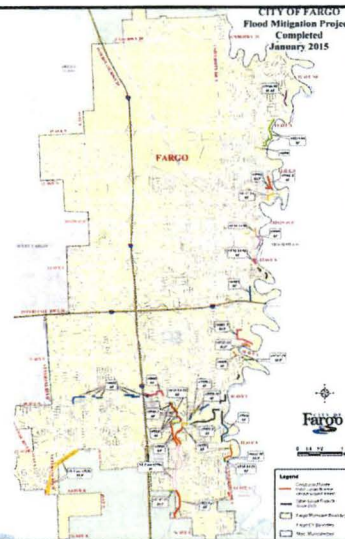
Remaining Projects

- ▶ Over 13.38 miles remaining
 - *excludes Cass County 20 Area
- ▶ Project Cost ≈ \$240 million (2014 \$)
 - # Includes 2015 Planned Projects
 - # Does not include Diversion Authority More Flow Through Town Projects
- ▶ Type of Projects:
 - Levees along River & Legal Drains
 - Road Raises
 - Includes Interstate 29 at Drain 27
- ▶ 92% of the Comprehensive Plan would be completed



Summary

- ▶ Over 16 Miles of Improvements Totaling Over \$82M Since 2009
- ▶ Reduces required sandbags by approximately 4 million
- ▶ 45% of the Comprehensive Plan Completed
 - Additional projects under construction would bring total to 55% completed
- ▶ Outstanding Issues
 - With Comprehensive Plan completed would still need:
 - 7.6 miles of emergency clay levees
 - 3.2 miles of sandbag levees
 - Not all areas have feasible solutions
 - Events greater than
 - 39.5 feet
 - 42.5 feet
 - ?!



So...Why implement this Comprehensive Plan?

Short Term:

- Reduce emergency measures—immediate benefit from each project
- Provide real protection for existing homes that were built prior to the knowledge of the increased risk

Long Term:

- Upon completion of Certifiable reaches—Keep Housing Affordable for more of our population by making flood insurance available to residents at the lowest possible rates
- Combined with the FM Diversion— Provide for greater than 100 year protection for the largest population center in ND



What About New Developments?

- ▶ The Comprehensive plan will provide the greatest benefit to existing structures.
- ▶ New Developments are required to elevate ground to the FEMA 100 Year Elevation and follow the proven floodplain management strategies put in place by Fargo's Leadership.
- ▶ Now that we have defined the risk with the FEMA and USACE floodplains we can build appropriately!

Successful Floodplain Management

Strategy Employed

- ▶ City Adopted a setback ordinance that requires newly platted areas to setback construction a minimum of:
 - 450' from the center of the Red and Wild Rice Rivers
 - 175' from the Sheyenne River and all legal drains

Advantages

- ▶ Protects Riparian buffers
- ▶ Provides room for a natural angle of repose on watercourse slopes
- ▶ Allows room for conveyance of water during flood events
- ▶ Compliments the Buyout efforts along the previously built on portions of the River

Successful Floodplain Management

Strategy Employed

- ▶ City Adopted a floodproofing policy that exceeds state & federal minimums to provide newly constructed homes protection from an event greater than the USACE 100 year floodplain
(based on 41' USACE Elevation + 1.2' freeboard)

Advantages

- ▶ Proactively manages new construction to provide opportunity for lower cost insurance now and in the future
- ▶ Protects against multiple sources of flooding including intense rainfall- not just spring melt events

Successful Floodplain Management

Strategy Employed

- ▶ City worked with the Home Builders Association and Industry Professionals to update the design for floodproof foundations

Advantages

- ▶ Structurally Sound and proven over 40 years to reduce damages
- ▶ Approved by FEMA for a Continued Basement Exception that allows for lower flood insurance premiums on new construction
- ▶ Protects against multiple sources of flooding including intense rainfall- not just spring melt events

For More Information Please Visit:

www.cityoffargo.com

www.fmdiversion.com

www.fargofloodinsurance.com

Prepared by City of Fargo
Engineering Department

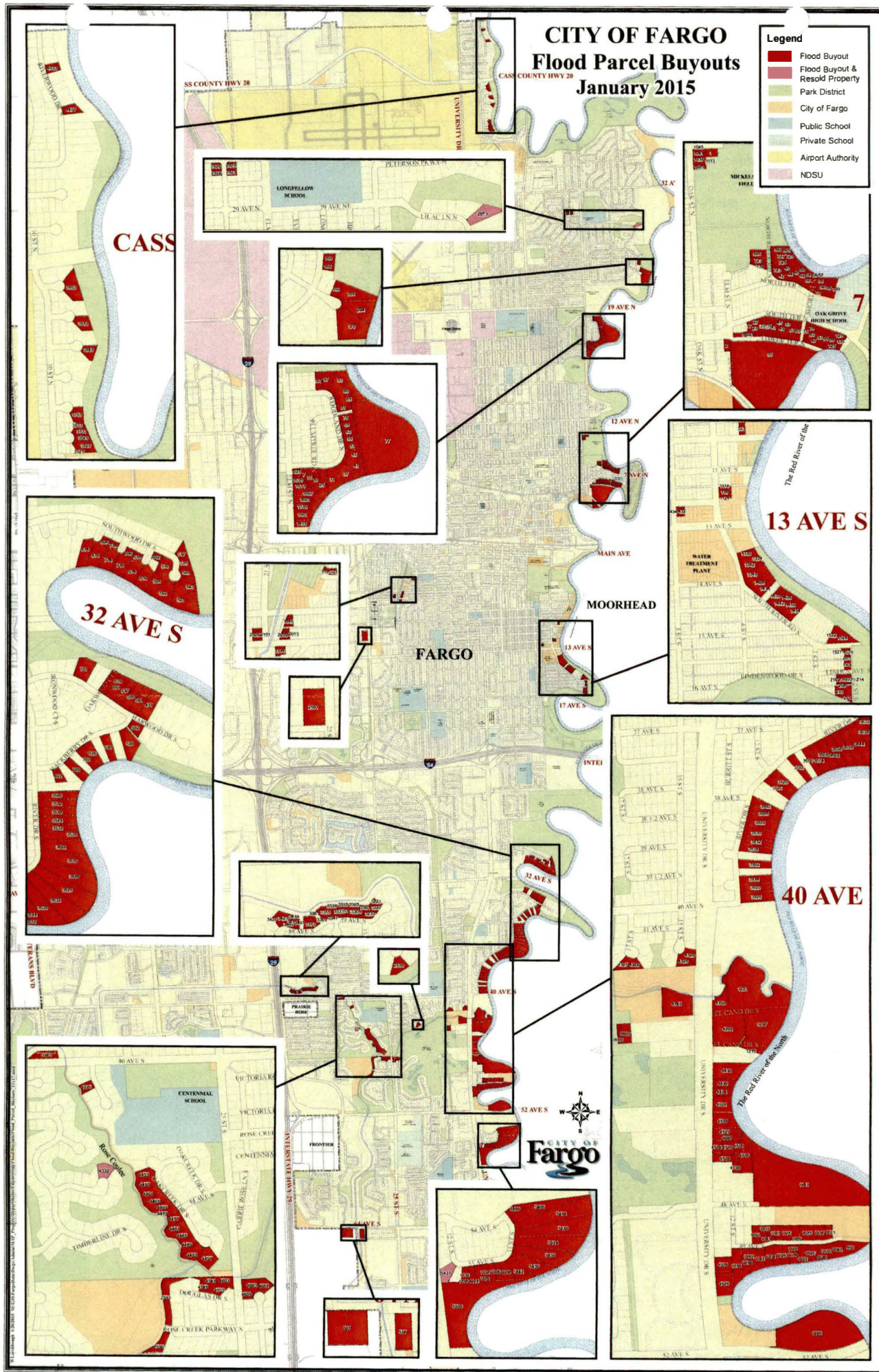
Contact:
April E. Walker P.E., C.F.M.
City Engineer
awalker@cityoffargo.com
(701)-241-1554



CITY OF FARGO **Flood Parcel Buyouts** **January 2015**

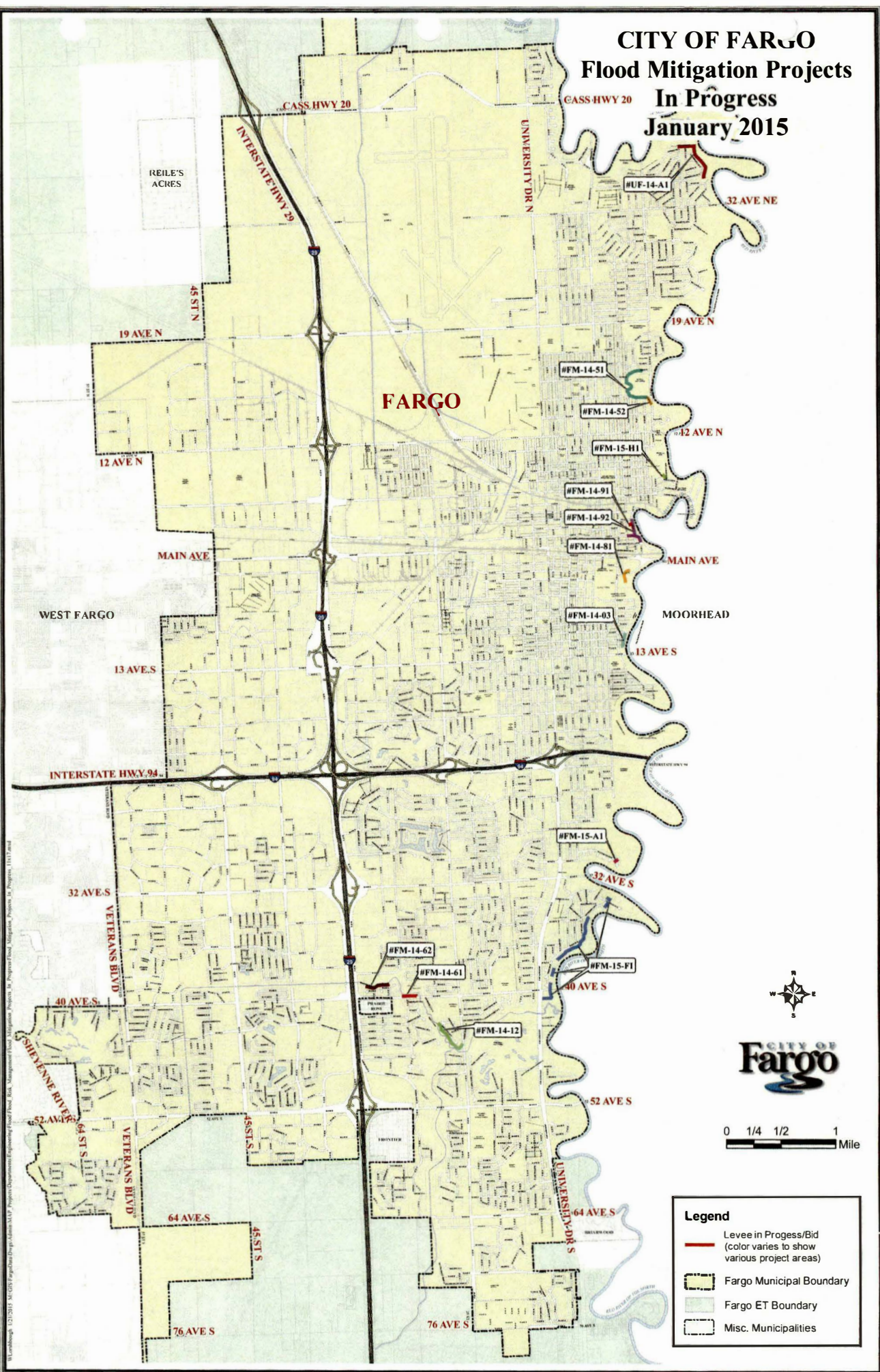
Legend

- Flood Buyout
- Flood Buyout & Resold Property
- Park District
- City of Fargo
- Public School
- Private School
- Airport Authority
- NDSU





CITY OF FARGO Flood Mitigation Projects In Progress January 2015

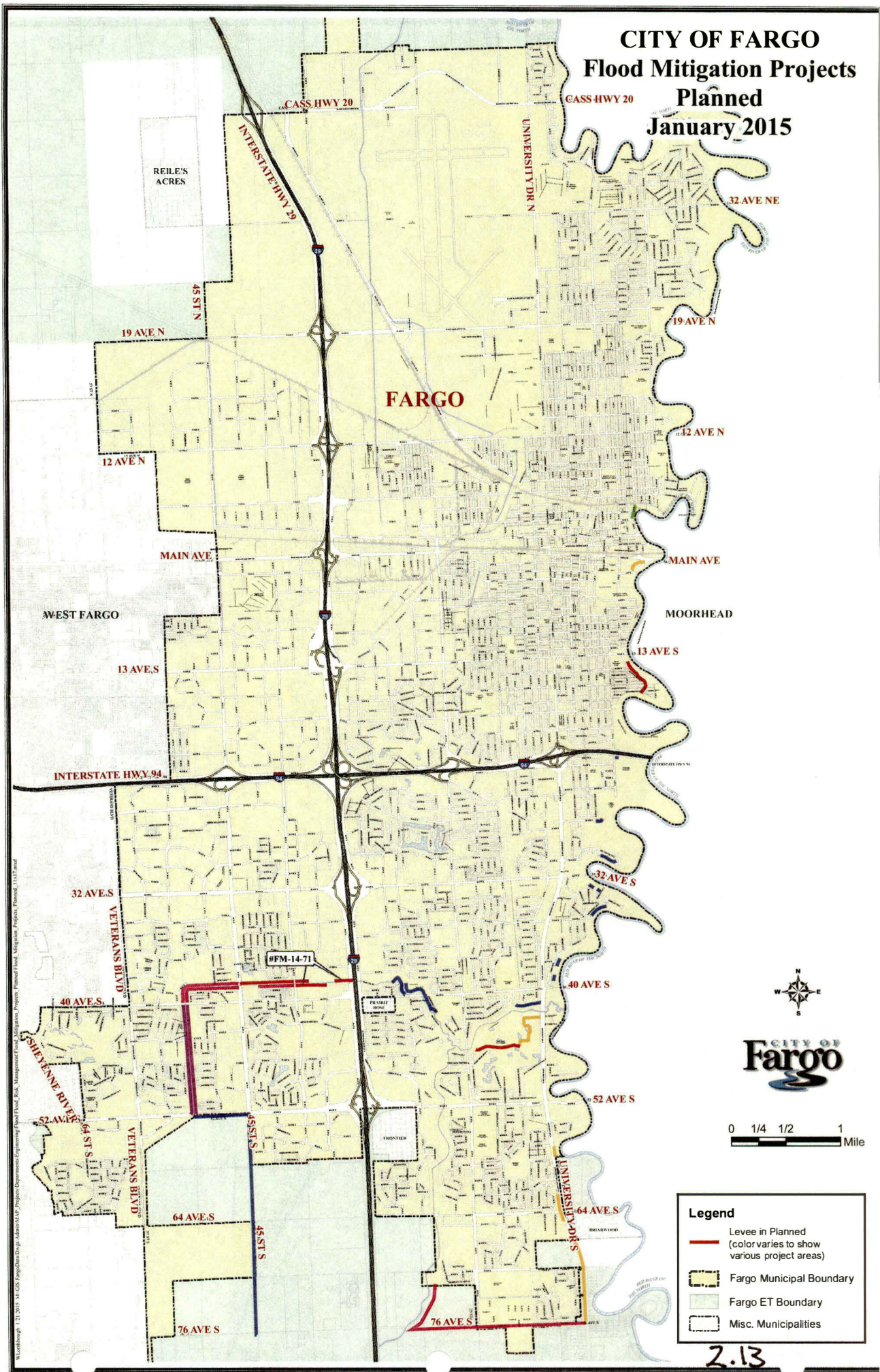


CITY OF FARGO

Flood Mitigation Projects

Planned

January 2015





Legend

- Floodwall
- Outfall Pipe
- Levee

Construction Year

- 2015
- 2016

**F-M Metro Flood Risk Management Project
In Town Levees Construction Schedule
2nd Street / Downtown Reach Fargo, ND**

Created By: dskirpatrick Date Created: 12/11/2014 Date Exported: 12/11/2014 Image: Fargo 2014
Horizontal Datum: Fargo Ground Coordinate System
F:\Working\Oliv\11by17.mxd

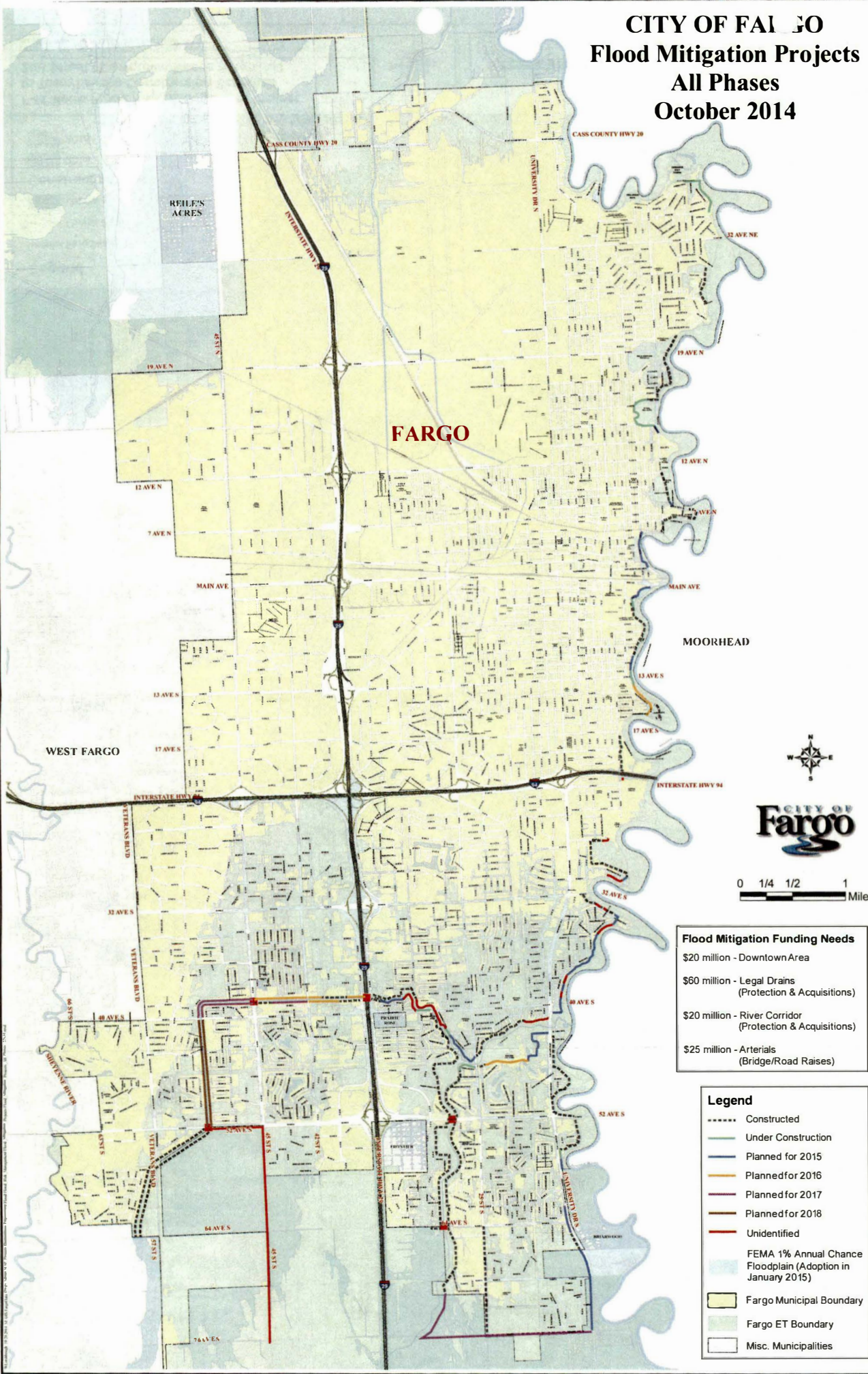
0 150 300

Feet

1 inch = 300 feet



CITY OF FARGO Flood Mitigation Projects All Phases October 2014



Flood Mitigation Funding Needs	
\$20 million - Downtown Area	
\$60 million - Legal Drains (Protection & Acquisitions)	
\$20 million - River Corridor (Protection & Acquisitions)	
\$25 million - Arterials (Bridge/Road Raises)	

Legend	
-----	Constructed
-----	Under Construction
-----	Planned for 2015
-----	Planned for 2016
-----	Planned for 2017
-----	Planned for 2018
-----	Unidentified
-----	FEMA 1% Annual Chance Floodplain (Adoption in January 2015)
-----	Fargo Municipal Boundary
-----	Fargo ET Boundary
-----	Misc. Municipalities

2.15



Date: March 27, 2015

To: North Dakota Senate Energy and Natural Resources Committee
Senator Donald Schaible, Chairman
North Dakota State Capitol
Bismarck, ND 58501

From: Valley Prosperity Partnership
Tammy Miller, CEO, Border States Electric, VPP Co-Chair
Steve Burian, CEO, AE2S, VPP Co-Chair

RE: H.B. 1415 Support

Thank you for your service to our great state. Please accept this letter as the Valley Prosperity Partnership's strong support for Fargo flood control project funding addressed in H.B. 1415.

The Red River Valley region is anchored by the economic centers of Fargo-Moorhead, Grand Forks-East Grand Fork and Wahpeton-Breckenridge. The VPP is comprised of the Valley's key leadership in private sector businesses, economic developers, and the state's two major research universities.

The VPP believes permanent flood protection is critical to the continued success of the Fargo-Moorhead area to protect the economic interests of the region and the state. Valley communities need flood protection solutions for businesses and industries to prevent exorbitant flood insurance costs, to make long-term investments with certainty, and to continue to attract residents. The VPP fully supports legislation outlining the state's intent to provide one-half of the local cost-share of Fargo flood control projects.

We request you place a high priority on providing funding by supporting state dollars to advance the project. State support for Fargo flood control is a critical component to the economic engines that comprise the VPP membership.

If we can answer any questions, please do not hesitate to contact us.

Thank you.

Tammy Miller
CEO Border States Electric
Co-Chair, VPP

Steve Burian
CEO AE2S
Co-Chair, VPP



About the Valley Prosperity Partnership

Spurred by the vision and a \$100,000 investment from Forum Communications Company Chairman William C. Marcil, along with private industry and higher education steering committee members each investing \$20,000, the Valley Prosperity Partnership (VPP) formed to identify strategic economic opportunities to bring the Red River Valley region of North Dakota and Minnesota together to focus on workforce, job creation, infrastructure, and economic needs of the region.

Purpose Statement

Through its strategic planning efforts, the Valley Prosperity Partnership will identify collaborative, actionable economic development initiatives that can be implemented within five (5) years. Identified initiatives will build on community strengths and resources to ensure economic prosperity throughout the Red River Valley of North Dakota and Minnesota, which will contribute to the health and prosperity of both states.

Priorities

1. Attract, develop and retain talent
2. Ensure water security and management
3. Expand research capacity and relevancy
4. Accelerate entrepreneurial activity and output
5. Invest in critical infrastructure development and capital improvement
6. Define and improve the internal and external perception of the Valley

Steering Committee

- **William C. Marcil**,
Chairman
Forum Communications Co.
- **Tammy Miller**, *CEO*
Border States Electric
Committee Co-chair
- **Steve Burian**, *CEO*
AE2S
Committee Co-chair
- **Dave Anderson**,
Dir. of Public Affairs
Sanford Health
- **Barry Batcheller**,
Chairman & CEO
Appareo Systems
- **Dave Berg**,
President & CEO
American Crystal Sugar
- **Karl Bollingberg**,
Exec. VP
Alerus Financial
- **Dean Bresciani**, *President*
North Dakota State
University
- **Doug Burgum**, *Founder &*
Chairman
Arthur Ventures
- **John Eickhof**, *President*
Construction Engineers
- **Jim Galloway**, *Principal*
JLG Architects
- **Jim Gartin**, *President*
Greater Fargo-Moorhead
EDC
- **Hal Gershman**, *Owner*
Happy Harry's Bottle Shops
- **Tim Huckle**,
President & CEO
Blue Cross Blue Shield ND
- **Robert Kelley**, *President*
University of North Dakota
- **Dave Molmen**, *CEO*
Altru Health System
- **Mark Nisbet**,
N.D. Principal Mgr.
Xcel Energy
- **Ronald Offutt**,
Chairman & CEO
RDO Equipment
- **John Richman**, *President*
N.D. State College of
Science
- **Jim Roers**,
President & CEO
Roers Construction &
Development
- **Wes Rydell**, *Owner*
The Rydell Company
- **Jeff Sandene**, *COO*
Sanford Health
- **Thomas Shorma**,
President & CEO
WCCO Belting, Inc
- **Richard Solberg**,
Chairman & CEO
Bell State Bank & Trust
- **Steve Swiontek**,
President & CEO
Gate City Bank
- **Anne Temte**, *President*
Northland Community &
Technical College
- **Klaus Thiessen**,
President & CEO
Grand Forks Region EDC

March 27, 2015

3/30/15
Attachment 1

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1415

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to provide an appropriation to the state water commission; to provide legislative intent; to provide an exemption; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. APPROPRIATION. There is appropriated out of any moneys in the strategic investment and improvements fund in the state treasury, not otherwise appropriated, the sum of \$30,000,000, or so much of the sum as may be necessary, and out of any moneys in the state disaster relief fund in the state treasury, not otherwise appropriated, the sum of \$30,000,000, or so much of the sum as may be necessary, to the state water commission for the purpose of providing funding for flood protection projects within city limits of Fargo for the period beginning with the effective date of this Act and ending June 30, 2017. The city of Fargo must apply for flood protection project funding, but the state water commission may not deny an application unless the funds are not intended to be used in accordance with provisions of this section. The city of Fargo may use the funds for costs directly associated with completion of interior flood protection projects within its city limits, including engineering and legal fees, right of way acquisition costs, land purchases, home buyouts, and construction costs. Funds may not be used for general operations or administrative costs.

SECTION 2. LEGISLATIVE INTENT - FARGO INTERIOR FLOOD PROTECTION. It is the intent of the sixty-fourth legislative assembly that a total of \$120,000,000 be provided by the state for flood protection projects within the city limits of Fargo during the 2015-17 and 2017-19 bienniums.

SECTION 3. EXEMPTION. The funds appropriated in section 1 of this Act are not subject to section 54-44.1-11, and any unexpended funds must be continued into the 2017-19 or subsequent bienniums and may be spent only for flood protection projects within city limits of Fargo.

SECTION 4. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

STATEMENT OF PURPOSE OF AMENDMENT:

This amendment provides an appropriation of \$60 million, \$30 million from the strategic investment and improvements fund and \$30 million from the state disaster relief fund to the State Water Commission for providing funding for flood protection projects within city limits of Fargo.

1
4-6-15

TESTIMONY ON ENGROSSED HOUSE BILL NO. 1415

Senate Appropriations Committee

**Bruce Engelhardt, Director of Water Development
North Dakota State Water Commission**

April 6, 2015

Mr. Chairman and members of the Senate Appropriations Committee, my name is Bruce Engelhardt. I am the Director of Water Development for the State Water Commission. I am here today to provide information on Engrossed House Bill 1415 (First Engrossment with Senate Amendments).

The need for flood control in the city of Fargo has been demonstrated over and over again by the almost annual flooding that has occurred for the last 20 years and has been explained very well by Fargo to this committee. The Water Commission has and continues to support the critical need for flood protection for Fargo.

In the 2009-2011, 2011-2013, and 2013-2015 bienniums, a total of \$175 million was appropriated specifically for Fargo flood control. Through the end of February just under \$61.5 million of this cost share has been spent by the local sponsor. The intent of the 63rd Legislative Assembly was to provide one-half the local cost share of the project not to exceed \$450 million, with the further intent that the remaining \$275 million be made available in equal installments over the next four bienniums. The executive budget and Engrossed Senate Bill No. 2020 include \$69 million for Fargo flood control, which reflects that intent.

Engrossed House Bill No. 1415 is unclear as to cost share percentage. My understanding is that the intent is to provide 50 percent state cost share. To clarify this I suggest inserting "fifty percent of" after the word "for" in line 13.

Section 9 of Engrossed Senate Bill No. 2020 includes requirements for expenditure of funding for the Fargo flood control project, which differs from the requirements in this bill. To avoid confusion between the local sponsor and the Water Commission staff, and to avoid delays in processing cost share payments, I request that the requirements for expenditures in the two bills be made as similar as possible.

Thank you for the opportunity to comment. I will be happy to answer any questions.

1.1

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1415

Page 1, line 13, after "for" insert "fifty percent of"

Renumber accordingly

2

4-6-15

2.1

Sixty-fourth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1415

HB 1415
4-9-15
#1

Introduced by

Representatives Carlson, Beadle, Belter, Kasper, Porter, Thoreson

Senators Casper, Davison, Flakoll

1 A BILL for an Act to provide for Fargo flood control project funding requirements; and to provide
2 legislative intent.

3 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

4 SECTION 1. FARGO INTERIOR FLOOD CONTROL PROJECT FUNDING

5 REQUIREMENTS. Any funds designated by the sixty-fourth legislative assembly for Fargo
6 interior flood control projects may be expended only for Fargo interior flood control projects,
7 including levees and dikes until a federal appropriation is provided for project construction for
8 the Fargo flood control project at which time it may be used for a federally authorized Fargo
9 flood control project for the biennium beginning July 1, 2015, and ending June 30, 2017. Except
10 as otherwise provided, these funds may be used only for land purchases and construction,
11 including right-of-way acquisition costs and may not be used for the purchase of dwellings.

12 SECTION 2. LEGISLATIVE INTENT - FARGO FLOOD CONTROL PROJECT FUNDING. It

13 is the intent of the sixty-fourth legislative assembly that the state provide one-half of the local
14 cost-share of Fargo flood control projects, including constructing a federally authorized Fargo
15 flood control project and that total Fargo flood control project funding to be provided by the state
16 not exceed \$570,000,000. It is further the intent of the sixty-fourth legislative assembly that
17 \$120,000,000 of the \$570,000,000, be used for Fargo interior flood control projects and that any
18 funds spent for Fargo interior flood control projects after July 1, 2017 require 50 percent
19 matching funds from the Fargo flood authority. It is further the intent of the sixty-fourth legislative
20 assembly that the ~~state water commission reallocate water project funding within its 2015-17~~
21 ~~biennium appropriation as necessary to provide funding for eligible Fargo flood control project~~
22 ~~commitments.~~ \$326,000,000 yet to be designated by the state for the Fargo flood control project
23 be made available in equal installments over the next five bienniums. It is further the intent of

Sixty-fourth
Legislative Assembly

- 1 | the sixty-fourth legislative assembly that funding for the Fargo flood control project will end June
- 2 | 30, 2021, if a federal appropriation has not been provided by June 30, 2021.

Sixty-fourth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1415

#1

Introduced by

4-9-15

Representatives Carlson, Beadle, Belter, Kasper, Porter, Thoreson

HB 1415

Senators Casper, Davison, Flakoll

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1./

Sixty-fourth
Legislative Assembly

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April 8, 2015

#2
HB 1415
H 2-15

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1415

Page 1, line 1, after "provide" insert "for Fargo flood control project funding requirements; and to provide"

Page 1, after line 2, insert:

"SECTION 1. FARGO INTERIOR FLOOD CONTROL PROJECT FUNDING REQUIREMENTS. Any funds designated by the sixty-fourth legislative assembly for Fargo interior flood control projects may be expended only for Fargo interior flood control projects, including levees and dikes until a federal appropriation is provided for project construction for the Fargo flood control project at which time it may be used for a federally authorized Fargo flood control project for the biennium beginning July 1, 2015, and ending June 30, 2017. Except as otherwise provided, these funds may be used only for land purchases and construction, including right-of-way acquisition costs and may not be used for the purchase of dwellings."

Page 1, line 7, after the period insert "It is further the intent of the sixty-fourth legislative assembly that \$120,000,000 of the \$570,000,000, be used for Fargo interior flood control projects and that any funds spent for Fargo interior flood control projects after July 1, 2017 require 50 percent matching funds from the Fargo flood authority."

Page 1, replace lines 8 through 10 with "\$326,000,000 yet to be designated by the state for the Fargo flood control project be made available in equal installments over the next five bienniums. It is further the intent of the sixty-fourth legislative assembly that funding for the Fargo flood control project will end June 30, 2021, if a federal appropriation has not been provided by June 30, 2021."

Renumber accordingly

Sixty-fourth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1415

#3

4-9-15

HB1415

Introduced by

Representatives Carlson, Beadle, Belter, Kasper, Porter, Thoreson

Senators Casper, Davison, Flakoll

1 A BILL for an Act to provide legislative intent.

2 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

3 SECTION 1. LEGISLATIVE INTENT - FARGO FLOOD CONTROL PROJECT FUNDING. It

4 is the intent of the sixty-fourth legislative assembly that the state provide one-half of the local

5 cost-share of Fargo flood control projects, including constructing a federally authorized Fargo

6 flood control project and that total Fargo flood control project funding to be provided by the state

7 not exceed \$570,000,000. It is further the intent of the sixty-fourth legislative assembly that the

8 state water commission reallocate water project funding within its 2015-17 biennium

9 appropriation as necessary to provide funding for eligible Fargo flood control project

10 commitments.

